



The College of Naturopaths of Ontario

# **Council of the College of Naturopaths of Ontario**

## **Meeting #35**

## **Draft Agenda**

Date: May 31, 2023(2023/24-01)

Time: 9:15 a.m. to 12:15 p.m.

Location: Zoom Video Conference<sup>1</sup>

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<sup>1</sup> Pre-registration is required.

**Excerpt from the Health Professions Procedural Code  
Regulated Health Professions Act.**

COLLEGE

**College is body corporate**

2. (1) The College is a body corporate without share capital with all the powers of a natural person.

**Corporations Act**

(2) The *Corporations Act* does not apply in respect to the College. 1991, c. 18, Sched. 2, s. 2.

**Duty of College**

2.1 It is the duty of the College to work in consultation with the Minister to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals. 2008, c. 18, s. 1.

**Objects of College**

3. (1) The College has the following objects:

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the *Regulated Health Professions Act, 1991* and the regulations and by-laws.
2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.
3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.
4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing evaluation, competence and improvement among the members.
  - 4.1 To develop, in collaboration and consultation with other Colleges, standards of knowledge, skill and judgment relating to the performance of controlled acts common among health professions to enhance interprofessional collaboration, while respecting the unique character of individual health professions and their members.
5. To develop, establish and maintain standards of professional ethics for the members.
6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Code and the *Regulated Health Professions Act, 1991*.
7. To administer the health profession Act, this Code and the *Regulated Health Professions Act, 1991* as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College.
8. To promote and enhance relations between the College and its members, other health profession colleges, key stakeholders, and the public.
9. To promote inter-professional collaboration with other health profession colleges.
10. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues.
11. Any other objects relating to human health care that the Council considers desirable. 1991, c. 18, Sched. 2, s. 3 (1); 2007, c. 10, Sched. M, s. 18; 2009, c. 26, s. 24 (11).

**Duty**

(2) In carrying out its objects, the College has a duty to serve and protect the public interest. 1991, c. 18, Sched. 2, s. 3 (2).



The College of Naturopaths of Ontario

**COUNCIL MEETING #35**  
**May 31, 2023**  
**9:15 a.m. to 12:15 p.m.**  
**DRAFT AGENDA**

Sect/No.	Action		Item		Page	Responsible
0	Pre-Meeting Networking (8:45 am to 9:15 am)					
		Networking	Informal networking for Council members (8:45-9:15am)		--	All
1	Call to Order and Welcome					
	1.01	Procedure	Call to Order		--	Chair
	1.02	Discussion	Meeting Norms		4-6	Chair
	1.03	Discussion	“High Five” – Process for identifying consensus		7	Chair
2	Executive Committee Elections					
	2.01	Election	Council Chair		--	A Parr
	2.02	Election	Council Vice-Chair		--	
	2.03	Election	Officer-at-Large Public member		--	
	2.04	Election	Officers-at-Large Professional members		--	
3	Consent Agenda <sup>1</sup>					
	3.01	Approval	i.	Draft Minutes of March 29, 2023	8-15	Chair
			ii.	Draft In-Camera Minutes of March 29, 2023	16-17	
			iii.	Committee Reports	18-32	
			iv.	Information Items	33-67	
4	Main Agenda (9:20 am)					
	4.01	Approval	Review of Main Agenda		3	Chair
	4.02	Discussion	Declarations of Conflict of Interest		68-69	Chair
5	Monitoring Reports					
	5.01	Acceptance	Report of the Council Chair		70	Chair
	5.02	Acceptance	Report on Regulatory Operations		71-76	A Parr
	5.03	Acceptance	Q4 Unaudited Statements and Variance Report		77-87	A Kupny
6	Council Governance Policy Confirmation					
	6.01	Discussion	Review/Issues Arising		--	J. Sokoloski
			i.	Ends Policies		
			ii.	Council-CEO Linkage Policies		
			iii.	Executive Limitations		
			iv.	Governance Process Policies		
	6.02	Decision	Detailed Review Committee Terms of Reference		88-105	
6.03	Decision	Governance Policy GP18 and GP19		106-113		
7	Regular Business					
	7.01	Decision	Committee Appointments		114-118	A Parr
	7.02	Decision	Council Training and In-person Meeting		--	A Parr
8	Council Education					
	8.01	Information	Program Briefing – Discipline Program		119-125	A Parr
	8.02	Information	Program Briefing – Inquiries, Complaints & Reports Program		126-130	N Vasilyeva
9	Other Business					
	9.01	Discussion			--	Chair
10	Evaluation and Next Meeting					
	10.01	Discussion	Meeting Evaluation		On-line	Chair
	10.02	Discussion	Next Meeting – July 26, 2023		--	Chair
11	Adjournment					
	11.01	Decision	Motion to Adjourn		--	Chair

<sup>1</sup> Members of Council may request any item in the Consent Agenda to be added to the main agenda.



The College of Naturopaths of Ontario

**Zoom Meeting  
Council of the College of Naturopaths of Ontario**

**Meeting Norms**

**General Norms**

1. We'll listen actively to all ideas
2. Everyone's opinions count
3. No interrupting while someone is talking
4. We will be open, yet honor privacy
5. We'll respect differences
6. We'll be supportive rather than judgmental
7. We'll give helpful feedback directly and openly
8. All team members will offer their ideas and resources
9. Each member will take responsibility for the work of the team
10. We'll respect team meeting times by starting on time, returning from breaks promptly and, avoid unnecessary interruptions
11. We'll stay focused on our goals and avoid getting sidetracked

**Additional Norms for Virtual Meetings**

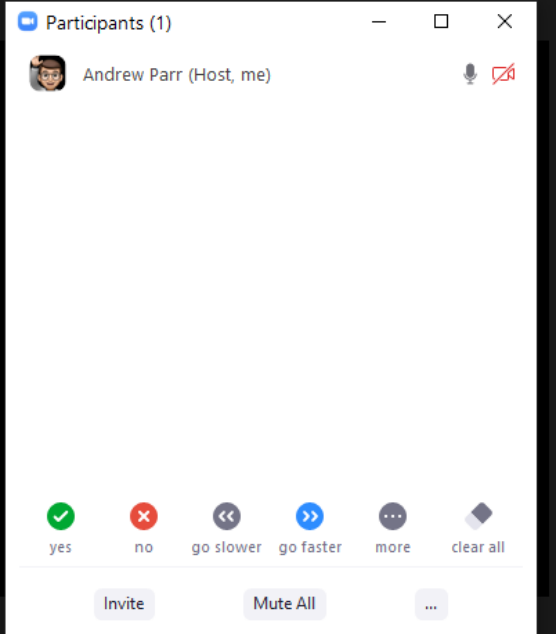
1. No putting the call on hold or using speakerphones
2. Minimize background noise – place yourself on mute until you are called upon to speak and after you have finished speaking
3. All technology, including telephones, mobile phones, tablets and laptops, are on mute or sounds are off
4. If we must take an emergency telephone call, we will ensure that we are on mute and we will stop streaming our video

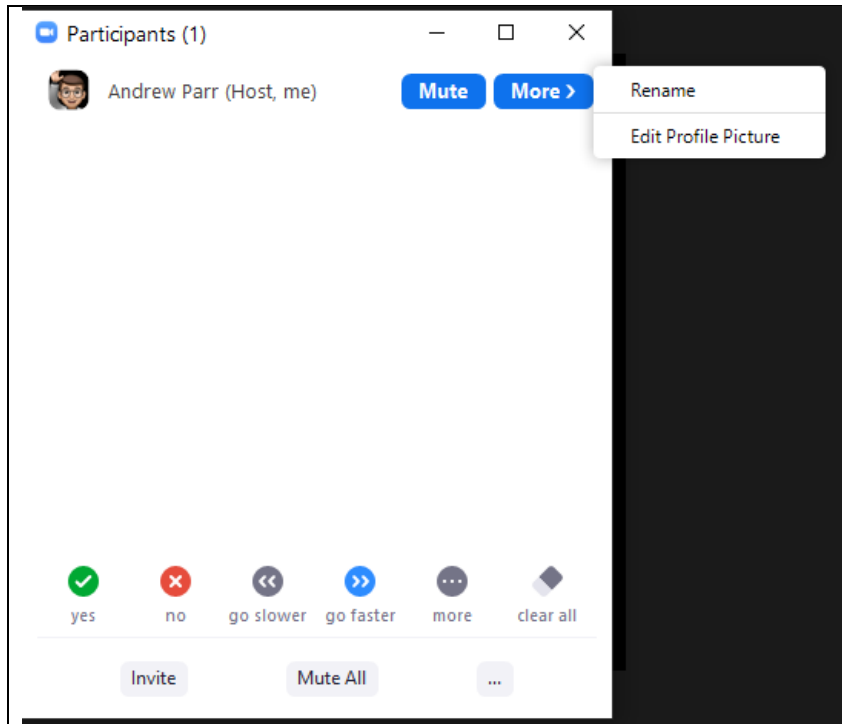
5. Stay present – webcams will remain on (unless we are on a call or there is another distraction on your end)
6. Stay focused – avoid multi-tasking during the meeting
7. Use reactions (thumbs up, applause) to celebrate accomplishments and people
8. Use the Chat feature to send a message to the meeting host or the entire group.

### Zoom Control Bar – Bottom of screen

Reactions	Stop or Start Video	Mute/Unmute	
	 	 	

### Other Helpful Tips

	<ul style="list-style-type: none"> <li>• Use the Participants button on the bottom control button to see a list of participants.</li> <li>• On the Participants Menu, you can use the bottoms to send instant message to the Host... yes or no etc. (Not all of these options will appear if you are not the Host)</li> </ul>
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The screenshot shows a Zoom application window titled "Participants (1)". Inside the window, there is a list of participants. The first participant is "Andrew Parr (Host, me)". To the right of the name are two buttons: "Mute" and "More >". The "More >" button is highlighted, and a dropdown menu is open, showing two options: "Rename" and "Edit Profile Picture". Below the participant list, there is a row of icons with labels: a green checkmark labeled "yes", a red X labeled "no", a double left arrow labeled "go slower", a double right arrow labeled "go faster", a three dots icon labeled "more", and a trash can icon labeled "clear all". At the bottom of the window, there are three buttons: "Invite", "Mute All", and a three dots icon.

- Hover over your name on the Participants list to get more options
- You can rename yourself to your proper name
- You can add or change a profile picture.



The College of Naturopaths of Ontario

**Zoom Meeting  
Council of the College of Naturopaths of Ontario**

**Using “High Five” to Seek Consensus**



We will, at times, use this technique to test to see whether the Council has reached a consensus.

When asked you would show:

- 1 finger – this means you hate it!
- 2 fingers – this means you like it but many changes are required.
- 3 fingers – this means I like it but 1-2 changes are required.
- 4 fingers – this means you can live with it as is.
- 5 fingers – this means you love it 100%.

In the interests of streamlining the process, for virtual meetings, rather than showing your fingers or hands, we will ask you to complete a poll.

Image provided courtesy of Facilitations First Inc.



The College of Naturopaths of Ontario

**Council Meeting  
March 29, 2023**

**Video Conference  
DRAFT MINUTES**

<b>Council</b>		
<b>Present</b>		<b>Regrets</b>
Dr. Jonathan Beatty, ND (4:6)		
Dr. Shelley Burns, ND (6:6) *		
Mr. Dean Catherwood (6:6)		
Mr. Brook Dyson (6:6)		
Ms. Lisa Fenton (6:6)		
Dr. Anna Graczyk, ND (5:6) **		
Ms. Sarah Griffiths-Savolaine (6:6)		
Ms. Tiffany Lloyd (5:6)		
Dr. Denis Marier, ND (6:6)		
Mr. Paul Phillion (6:6)		
Dr. Jacob Scheer, ND (6:6)		
Dr. Jordan Sokoloski, ND (6:6)		
Dr. George Tardik, ND (5:6)		
<b>Staff Support</b>		
Mr. Andrew Parr, CAE, CEO		
Ms. Agnes Kupny, Director of Operations		
Ms. Erica Laugalys, Director, Registration & Examinations		
Mr. Jeremy Quesnelle, Deputy CEO		
Ms. Monika Zingaro, Administration Coordinator		
<b>Guests</b>		
Ms. Rebecca Durcan, Legal Counsel		

\*Present until 12:20 p.m.

\*\*Present until 12:07 p.m.



### 1. Call to Order and Welcome

The Chair, Dr. Jordan Sokoloski, ND, called the meeting to order at 9:17 a.m. He welcomed everyone to the meeting.

The Chair also noted that the meeting was being live streamed via YouTube to the College's website.

### 2. Consent Agenda

#### 2.01 Review of Consent Agenda

The Consent Agenda was circulated to members of Council in advance of the meeting. The Chair asked if there were any items to move to the main agenda for discussion. There were none.

MOTION:	To approve the Consent Agenda as presented.
MOVED:	Jacob Scheer
SECOND:	Sarah Griffiths-Savolaine
<b>CARRIED.</b>	

### 3. Main Agenda

#### 3.01 Review of the Main Agenda

A draft of the Main Agenda, along with the documentation in support of the meeting had been circulated in advance of the meeting. The Chair asked if there were any changes to the agenda. Ms. Sarah Griffiths-Savolaine proposed moving Item 8 up in the agenda pending on timing to have all Council members present. In addition, Item 6.04 has been removed from the agenda.

MOTION:	To approve the Main Agenda as amended.
MOVED:	Paul Phillion
SECOND:	Anna Graczyk
<b>CARRIED.</b>	

#### 3.02 Declarations of Conflicts of Interest

The Chair reminded the Council members of the updated Declarations of Conflict-of-Interest process. A summary of the Annual Conflict of Interest Questionnaires completed by Council members has been included to increase transparency and accountability initiatives, and to align with the College Performance Measure Framework Report (CPMF) launched by the Ministry of Health.

Dr. Jonathan Beatty, ND, advised the Chair he has completed the Form and has no conflicts to declare.

### 4. Monitoring Reports

#### 4.01 Report of the Council Chair

The Report of the Council Chair was circulated in advance of the meeting. The Chair reviewed the report briefly with Council. He welcomed and responded to questions from the Council.

MOTION:	To accept the Report of the Council Chair as presented.
MOVED:	George Tardik
SECOND:	Lisa Fenton
<b>CARRIED.</b>	

#### **4.02 Report on Regulatory Operations from the Chief Executive Officer (CEO)**

The Report on Regulatory Operations from the CEO and corresponding Briefing Note were circulated in advance of the meeting. Mr. Andrew Parr, CEO, provided highlights of the report and responded to questions that arose during the discussion that followed.

MOTION:	To accept the Report on Regulatory Operations from the CEO.
MOVED:	Paul Phillion
SECOND:	Tiffany Lloyd
<b>CARRIED.</b>	

#### **4.03 Variance Report and Unaudited Financial Statements for Q3**

A Variance Report and the Unaudited Financial statements ending December 31, 2022 (Q3) were included in the materials circulated in advance of the meeting. Ms. Agnes Kupny, Director of Operations, provided a review of the Variance Report and the Unaudited Statements and highlighted the changes in the report from the previous quarter. She responded to questions that arose during the discussion that followed.

MOTION:	To accept the Variance Report and Unaudited Financial statements for the third quarter as presented.
MOVED:	Anna Graczyk
SECOND:	Jacob Scheer
<b>CARRIED.</b>	

#### **4.04 College Performance Measure Framework Report (CPMF)**

Mr. Parr reviewed in detail the CPMF Report distributed to Council in advance of the meeting. He informed the Council that once approved, the report will be submitted to the Ministry of Health and uploaded to the College's website for the public's viewing. In addition, he responded to any questions or concerns that arose during the discussion that followed.

MOTION:	To approve the College Performance Measure Framework report of the College of Naturopaths of Ontario as presented.
MOVED:	Jonathan Beatty
SECOND:	Shelley Burns
<b>CARRIED.</b>	

## 5. Council Governance Policy Confirmation

### 5.01 Review/Issues Arising

#### 5.01(i) Executive Limitations Policies

Council members were asked if they had any questions or matters to note with respect to the Executive Limitations policies based on the reports received. No issues were noted at this time.

#### 5.01(ii) Council-CEO Linkage Policies

Council members were asked if they had any questions or matters to note with respect to the Council-CEO Linkage policies based on the reports received. No issues were noted at this time.

#### 5.01(iii) Ends Policies

Council members were asked if they had any questions or matters to note with respect to the Ends policies based on the reports received. No issues were noted at this time.

### 5.02 Detailed Review (as per GP08) – Governance Process (Part 2) Policies

Council members were asked if there were any members who wished to discuss the Governance Process (Part 2) Policies. The Chair provided a detailed overview of the amendments being presented on behalf of the Governance Policy Review Committee as outlined in the Memorandum included within the Council's package and responded to any questions that arose during the discussion.

MOTION:	To accept the recommendations of the Governance Policy Review Committee.
MOVED:	George Tardik
SECOND:	Paul Phillion
<b>CARRIED.</b>	

### 5.03 Policy Review – Governance Process Policies 15 & 16

The Chair provided a detailed overview of the amendments being presented on behalf of the Governance Policy Review Committee as outlined in the Memorandum included within the Council's package and responded to any questions that arose during the discussion.

At the conclusion of the discussion, the Council agreed that going forward their evaluation process outlined within GP16 would occur every second year after this fiscal year.

MOTION:	To accept the recommendations of the Governance Policy Review Committee.
MOVED:	Dean Catherwood
SECOND:	Paul Phillion
<b>CARRIED.</b>	

## 6. Business

### 6.01 Annual Operational Plan 2023-2027 Fiscal Years

A comprehensive Briefing Note and the Operational Plan document were circulated to the members of the Council in advance of the meeting. Mr. Parr provided a detailed review of the

plan and highlighted some projects and activities underway for the coming fiscal year 2023 - 2024. He also responded to any questions or concerns that arose during the discussion that followed.

MOTION:	To accept the Operational Plan for 2023-2027 as presented.
MOVED:	Paul Phillion
SECOND:	George Tardik
CARRIED.	

### 6.02 Annual Capital and Operating Budgets 2023-2024 Fiscal Year

A detailed Briefing Note and the draft budgets were included in the Council materials circulated in advance of the meeting. Ms. Kupny highlighted the main components within each budget and responded to any questions or concerns that arose during the discussion that followed.

MOTION:	To accept the Capital and Operating budgets for fiscal year 2023-2024 as presented.
MOVED:	Sarah Griffiths-Savolaine
SECOND:	Shelley Burns
CARRIED.	

### 6.03 Emergency Class – Registration Regulation Amendments

A Briefing Note and corresponding documentation highlighting the amendments to the Emergency Class – Registration Regulation was circulated in advance of the meeting. Mr. Parr provided a detailed overview of the amendments and responded to any questions that arose during the discussion.

MOTION:	To approve the Emergency Class – Registration Regulation amendments as presented.			
MOVED:	Denis Marier			
SECOND:	Paul Phillion			
IN FAVOUR	Public Members	6 (out of 6)	Professional Members*	5 (out of 5)
OPPOSED	Public Members	0 (out of 6)	Professional Members	0 (out of 5)
CARRIED.				

\*Dr. Shelley Burns, ND and Dr. Anna Graczyk, ND were not present during this discussion and motion.

## 7. Council Education

### 7.01 Program Briefing – Examination Program

A Briefing Note highlighting the Examination Program was circulated in advance of the meeting. Ms. Erica Laugalys, Director, Examinations & Registration, provided a detailed overview of the program and the processes within the program that the College follows and responded to any questions that arose during the discussion.

The Chair thanked Ms. Laugalys for presenting the Program to Council.

## 8. In-camera Session (Pursuant to paragraph (d) of section 7(2) of the HPPC)

### 8.01 Motion to Begin In-camera Session

The Chair called the meeting to move to an in-camera session at 11:45 a.m.

MOTION:	To move to an in-camera session pursuant to paragraph (d) of section 7(2) of the Health Professions Procedural Code as the Council will be discussing personnel matters.
MOVED:	Paul Phillion
SECOND:	Tiffany Lloyd
CARRIED.	

## 9. Other Business

The Chair asked if there was any other business to be brought before the meeting ended. There was none.

## 10. Meeting Evaluation and Next Meeting

### 10.01 Evaluation

The Chair advised the Council members that a link will be provided via e-mail for each member to copy and paste into a web browser to complete an evaluation form immediately following the end of the meeting.

### 10.02 Next Meeting

The Chair noted for the Council that the next regularly scheduled meeting is set for May 31, 2023.

## 10. Adjournment

### 10.01 Motion to Adjourn

The Chair asked for a motion to adjourn the meeting. The meeting adjourned at 1:11 p.m.

MOTION:	To adjourn the meeting.
MOVED:	George Tardik
SECOND:	Tiffany Lloyd

Recorded by: Monika Zingaro  
Administration Coordinator  
March 29, 2023



The College of Naturopaths of Ontario

Action Items List  
Council Meeting of March 29, 2023  
Meeting No. 34

Item #	Item	Description	Status
34.01	College Performance Measure Framework (CPMF) Report	Upload the newly accepted CPMF Report to the College's website.	Complete
34.02	Governance Process (Part 2) Policies	Update the corresponding policies as presented and upload to Smartsheet and to the College's website.	Complete
34.03	Governance Process Policies 15 & 16	Update the corresponding policies as presented and upload to Smartsheet and to the College's website; as they were deferred from the January meeting.	Complete
34.04	Annual Operational Plan 2023-2027	Upload the newly accepted Operational Plan for the years 2023-2027 to the College's website.	Complete
34.05	Annual Capital and Operating Budgets 2023-24	Upload the newly accepted Annual Capital and Operating budgets to the College's website.	Complete
34.06	Emergency Class – Registration Regulation	Upload the newly amended Regulation to reflect the acceptance of the Emergency Class to the College's website.	Complete



The College of Naturopaths of Ontario

### **Minutes Redacted**

The Council moved to an in-camera session to discuss materials pursuant to paragraph (2) of section 7(2) of the Health Professions Procedural Code, Schedule 2 of the *Regulated Health Professions Act, 1991*. The minutes of that portion of the meeting are also protected under the same authority and have therefore been redacted from the Council meeting materials being disclosed.





The College of Naturopaths of Ontario

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The College of Naturopaths of Ontario

# MEMORANDUM

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**DATE:** May 31, 2023

**TO:** Members of Council

**FROM:** Andrew Parr, CAE  
Chief Executive Officer

**RE:** Committee Reports

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Please find attached the Committee Reports for item 3.01 (iii) of the Consent Agenda.  
The following reports are included:

1. Audit Committee.
2. Examination Appeals Committee.
3. Executive Committee.
4. Inquiries, Complaints and Reports Committee.
5. Governance Committee.
6. Patient Relations Committee.
7. Quality Assurance Committee.
8. Registration Committee.
9. Discipline Committee.
10. Inspection Committee.
11. Governance Policy Review Committee.
12. Standards Committee.
13. Equity, Diversity and Inclusion Committee.

In order to increase the College's accountability and transparency, all Committee Chairs were asked to submit a report, even if the Committee had not met during the reporting period. Please note the Discipline/Fitness to Practise Committee Chair was not required to submit a report in order to preserve the independent nature of these Committees; however, the Chair has voluntarily provided a report for Council's information.



The College of Naturopaths of Ontario

## **AUDIT COMMITTEE REPORT**

May 2023

For the reporting period of March 1, 2023, to April 30, 2023 the Audit Committee was not required to undertake any activities, and therefore did not convene.

The Committee is expected to meet mid May.

Dr. Elena Rossi, ND  
Chair  
May 2023.



The College of Naturopaths of Ontario

## **EXAM APPEALS COMMITTEE CHAIR REPORT**

March 1 - April 31, 2023

The Committee meets on an as-needed basis, based on received exam appeals, those that would require deliberation and decision, or needed appeals-related policy review.

The Exam Appeals Committee met on April 18, 2023 to review one appeal related to the Clinical Sciences Exam. After a thorough deliberation, the committee voted to grant the appeal. The committee felt that the decision reached was reasonable, impartial, conscious of equity, diversity and inclusion principles, while ultimately considering public safety.

Thank you,

Rick Olazabal, ND (Inactive)

Chair

Exam Appeals Committee

May 11, 2023



The College of Naturopaths of Ontario

## **EXECUTIVE COMMITTEE REPORT**

May 2023

This serves as the Chair report of the Executive Committee for the period of March 1 to April 30, 2023.

During the reporting period the Executive Committee was not required to undertake any activities, and therefore did not convene.

Respectfully submitted,

Dr. Jordan Sokoloski, ND

Council Chair

23 May 2023



The College of Naturopaths of Ontario

**INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE REPORT**  
May 2023

Between March 1 and April 30, 2023, the Inquiries, Complaints and Reports Committee held two regular online meetings – March 2 and April 6.

March 2, 2023: 7 matters were reviewed, ICRC members drafted 3 reports for ongoing investigations, and approved 2 Decisions and Reasons.

April 6, 2023: 9 matters were reviewed. ICRC members drafted 4 reports for ongoing investigations.

An Oral Caution was delivered on March 2, and was well-received.

Meetings continue to be well-attended and productive in the online format.

Dr. Erin Psota, ND  
Chair  
May 18<sup>th</sup>, 2023



The College of Naturopaths of Ontario

## **GOVERNANCE COMMITTEE CHAIR REPORT**

During the reporting period March 1, 2023 – April 30, 2023, the Governance Committee met once (on April 4<sup>th</sup>) At that meeting, the Committee reviewed two volunteer applications.

The Committee is hoping to find a time within the coming weeks to meet again.

I would like to take the opportunity to thank Committee members for the time and effort they have put into these ongoing educational endeavours.

Respectfully submitted,

Hanno Weinberger, Chair

**PATIENT RELATIONS COMMITTEE CHAIR REPORT**

March 1, 2023 – April 30, 2023

During the reporting period of March 1, 2023 – April 30, 2023, the Patient Relations Committee did not meet as they did not have a meeting scheduled.

The Committee's next scheduled meeting is May 31, 2023.

Thank you,

Dr. Gudrun Welder, ND  
Chair  
May 2023





The College of Naturopaths of Ontario

## **QUALITY ASSURANCE COMMITTEE REPORT May 2023**

### **Meetings and Attendance**

Since the date of our last report to Council in March, the Quality Assurance Committee has met on one occasion, via teleconference, on March 21<sup>st</sup>. Its previously scheduled April meeting was deferred to May as it was not able to meet quorum requirements.

### **Activities Undertaken**

At the March meeting, the Committee continued with its regular ongoing review and approval, where appropriate, of new and previously submitted CE category A credit applications.

Additionally, the Committee reviewed a submission from one Registrant on how they had addressed deficiencies found in their Peer and Practice Assessment and determined their response to be satisfactory.

The Committee also reviewed and made decisions with respect to one CE Reporting amendment request.

The Committee also reviewed and approved recommendations from staff with respect to the implementation of the Peer and Practice Assessment Component of the QA Program for 2023/24.

Finally, the Committee considered a CE Reporting update provided by staff and arrived at a final disposition in the matter of a Registrant who had consistently failed to meet their CE Reporting requirements, despite being granted several deadline extension opportunities to do so.

### **Next Meeting Date**

May 23, 2023

Respectfully submitted by,

Barry Sullivan, Chair,  
May 14, 2023



The College of Naturopaths of Ontario

REGISTRATION COMMITTEE REPORT  
(May 2023)

*At the time of this report, the Registration Committee met on March 22nd and April 19th 2023.*

**Exam Remediation- Unsuccessful Exam Attempts**

The Committee considered a request for consideration of exceptional circumstances under section 5(5)(b) of the Registration Regulation and continued to set plans of remediation for candidates who had made two unsuccessful attempts of an examination. In this reporting period the Committee set plans of remediation related to the Ontario Clinical Sciences Exam (for entry to practise) and the Ontario Prescribing and Therapeutics examination (for meeting the post-registration Standard of Practise for Prescribing).

**Application for Life Registration**

The Committee reviewed one application for life registration under section 23(1) of the College by-laws.

**IVIT Course Changes Review**

The Committee reviewed and approved additions to a College-approved IVIT course.

Danielle O'Connor, ND  
Chair  
Registration Committee  
May 15, 2023



The College of Naturopaths of Ontario

## **DISCIPLINE COMMITTEE REPORT**

May 2023

*The Discipline Committee (DC) is independent of Council and is not obligated to submit bimonthly reports addressing matters of importance to the Committee. However, in the interest of transparency and to acknowledge Committee members' involvement in the discipline process, the Chair is pleased to provide this report to Council.*

This report is for the period from 1 March to 30 April 2023 and provides a summary of the hearings held during that time as well as any new matters referred by the Inquiries, Complaints and Reports Committee (ICRC) of the College. Committee meetings and training are also reported.

### **Overview**

As of April 30, 2023, there were three ongoing matters before the Committee (22-04, 22-05, 22-06) and a Panel was working on one Decision and Reasons for a hearing held in December 2022 and February 2023 (22-01).

### **Discipline Hearings**

No hearings were held during the reporting period.

### **New Referrals**

No new referrals were made to the Discipline Committee from the ICRC during the reporting period.

### **Committee Meetings and Training**

There were no Committee meetings held during the reporting period.

Respectfully submitted,  
Dr. Jordan Sokoloski, ND, Chair  
23 May 2023

## **INSPECTION COMMITTEE REPORT**

### **April-May 2023**

#### **Committee Update**

Since the last Council meeting the Inspection Committee has met once by teleconference on April 19, 2023.

#### **Inspection Outcomes**

The Committee reviewed the Inspection Program Requirements Checklists used by the inspectors to record their observations during the inspections, and Inspector's Reports for 6 premises.

The outcomes were as follows:

- Part I
  - 0
- Part II
  - one pass with five recommendations
- Existing 5 Year Inspections
  - one pass with 13 recommendations
  - four pass with conditions, the outcomes for these four premises included a total of six conditions and 55 recommendations
- Fail
  - 0

Inspection outcomes in response to submissions received:

- Submissions were received from one premises that had a Part I inspection and two premises that had the 5-year inspection completed, the final outcome for a three premises was a pass.

#### **Type 1 Occurrence Reports**

- The Committee reviewed two Type 1 occurrence reports for the referral of a patient to emergency services within the five days following the performance of an IVIT procedure at the premises. No further action was required on the part of the reporting naturopath.

#### **Closing Remarks**

The committee is looking forward to hosting the next ICW session at which our panel members will dive deep into how this program works, what the standards are, and we will walk the attendees through the inspection process. We are looking forward to helping ND's understand and navigate the program and answer questions they may have.

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As spring has sprung, it heralds a time for the council to re-appoint committee members. It has been a pleasure being a part of this committee, and I hope to continue helping once summer is here!

Best regards,

Dr. Sean Armstrong, ND  
Chair, Inspection Committee  
May 23, 2023



The College of Naturopaths of Ontario

**Governance Policy Review Committee (GPRC)  
Bi-Monthly Report  
May 2023**

**Meetings and Attendance**

The Governance Policy Review Committee met on one occasion (March 7, 2023) between March 1 and April 30, 2023, via video conference. Attendance was excellent with no concerns regarding quorum experienced.

**Activities Undertaken**

At its **March** meeting, as part of the mandated detailed annual review of all Policies, the Committee reviewed and discussed Part 2 of the Governance Process Policies, namely GP17 to GP33. No Council member feedback was received, however members of the GPRC submitted their feedback, which was considered and discussed.

Additionally, the committee revisited GP15 and GP16 and discussed various recommended edits brought forward. The committee has also been tasked by Council to rewrite Policy E02 (Ends Priorities), and discussion began on that task. This item will be revisited at the meeting in May.

The proposed amendments suggested by the Committee were submitted to Council for review and approval at their March Council meeting.

**Next Meeting Date**

May 2, 2023

Respectfully submitted by,

Dr Brenda Lessard-Rhead, ND (Inactive)  
Chair  
May 2, 2023

## **STANDARDS REVIEW COMMITTEE REPORT**

March 1, 2023 – April 30, 2023

During the reporting period the Standards Committee had one meeting scheduled. It was agreed to cancel the meeting and circulate initial amendments to standards for Committee member review.

The Committee is next scheduled to meet in May 2023 where it will continue its review of the proposed amendments to the Standards of Practice.

Respectfully submitted,  
Dr. Elena Rossi, ND  
Chair  
May 2023

## **EQUITY, DIVERSITY AND INCLUSION COMMITTEE REPORT**

March 1, 2023 – April 30, 2023

For the reporting period of March 1, 2023 to April 30, 2023 the Equity, Diversity and Inclusion Committee (EDIC) had one meeting scheduled. The Committee reviewed in detail and amended the EDI Lens Tool training materials to be used by other College Committees in the review of their policies and processes.

The Committee is scheduled to meet on May 15, 2023 to review and finalize the EDI Lens Tool training materials.

Dr. Jamuna Kai, ND  
Co-Chair  
May 2023

Dr. Shelley Burns, ND  
Co-Chair  
May 2023





The College of Naturopaths of Ontario

# MEMORANDUM

**DATE:** May 31, 2023

**TO:** Council members

**FROM:** Andrew Parr, CAE  
Chief Executive Officer

**RE:** Items Provided for Information of the Council

As part of the Consent Agenda, the Council is provided a number of items for its information. Typically, these items are provided because they are relevant to the regulatory process or provide background to matters previously discussed by the Council.

To ensure that Council members, stakeholders and members of the public who might view these materials understand the reason these materials are being provided, an index of the materials and a very brief note as to its relevance is provided below.

As a reminder, Council members have the ability to ask that any item included in the Consent Agenda be moved to the main agenda if they believe the items warrants some discussion. This includes the items provided for information.

No.	Name	Description
1.	Gray Areas (No. 278)	Gray Areas is a monthly newsletter and commentary from our legal firm, Steinecke Maciura LeBlanc on issues affecting professional regulation. The issues for this past quarter are provided to Council in each Consent Agenda package.
2.	Legislative Update (March, April 2023)	This is an update provided by Richard Steinecke to the members of the Health Profession Regulators of Ontario (HPRO), formerly the Federation of Health Regulatory Colleges of Ontario (FHRCO). The updates identify legislation or regulations pertaining to regulation that have been introduced by the Ontario Government. The updates for the past quarter are provided to Council in each Consent Agenda package.
3.	Guidelines	Three Guidelines to reference as noted within Briefing Notes throughout the agenda items. These include the following,

No.	Name	Description
		<i>Understanding the Public Interest, Understanding the Rush Analysis Terminology and Understanding Transparency.</i>
4.	Council Meeting Evaluation	Graphs summarizing the responses of Council member's feedback from the March 2023 Council meeting.
5.	Exam Development Announcement	The Canadian Alliance of Naturopathic Regulatory Authorities (CANRA) has launched an examination development project that will see the creation of a national clinical practical examination.

# Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

## Analysis of Complaints Reviews for the Health Professions in Ontario

by Rebecca Durcan  
May 2023 - No. 278

Canada has a wide variety of approaches to external reviews for parties to a complaints screening decision.

Some courts have suggested that, in the absence of a statutorily created right, a complainant can only challenge the procedural fairness (not the merits) of the screening committee's decision: *Makis v College of Physicians and Surgeons of Alberta (Complaint Review Committee)*, 2020 ABCA 451 (CanLII); *Cameron v The Association of Professional Engineers and Geoscientists of Saskatchewan*, 2022 SKCA 118 (CanLII).

Some statutes provide for a complaints review officer whose jurisdiction is often limited to reviewing the process followed by the screening committee and who can only make recommendations. See, for example, s. 26 of the *Professional Engineers Act* of Ontario.

The Health Professions Appeal and Review Board (HPARB) of Ontario, established under the *Regulated Health Professions Act*, provides a fairly extensive external review for both complainants and registrants. Even there, however, the review is confined to whether the investigation was adequate and whether the screening committee's decision was reasonable.

In 2016 the Honourable Stephen Goudge, QC, formerly of the Ontario Court of Appeal, issued a report for the Ministry of Health on *Streamlining the Physician Complaints Process of Ontario*. He noted that only a small proportion of complaints screening committee decisions (18%) resulted in a request for a review. Of those decisions reviewed, only 11.5% were not confirmed by HPARB.

To assess the current state of HPARB complaints reviews, we have scrutinized the first 100 of their decisions released in 2023 as posted on [CanLII](#). HPARB often conducts more than 500 complaints reviews each year.

We noted that HPARB confirmed the screening committee's decision in 95% of complaints reviews. This seems high given that the confirmation rate was noted as 88.5% in the Goudge report (which had a much higher sample size). As a result, we also reviewed the last 100 decisions in 2022. The confirmation rate then was 96%.

There are a number of possible explanations for the high confirmation rate by HPARB. There were several examples where complainants made multiple complaints against various registrants, many of whom had only limited involvement in the complainant's care. Those reviews were conducted separately for each registrant increasing the chances of confirming the decision.

Further, HPARB has been fairly consistent in determining that where there are disputed facts between complainants and registrants, at least in matters that are not extremely serious, the contemporaneous chart notes of the registrant should be accepted unless there are exceptional circumstances to doubt their accuracy. HPARB is also consistent in upholding that it is not the screening committee's role to make credibility findings of disputed facts.

Another contributing factor is that HPARB defers to the expertise of the screening committees (HPARB has no health practitioners on it) when it comes to standards of practice issues unless there are exceptional circumstances (e.g., the reasoning of the screening committee seems inconsistent with the regulator's own published policies). Over half of the complaints could be characterized as primarily dealing with

### FOR MORE INFORMATION

This newsletter is published by Steinecke Maciura LeBlanc, a law firm practising in the field of professional regulation. If you are not receiving a copy and would like one, please contact: Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-599-2200 Fax: 416-593-7867, E-Mail: [info@sml-law.com](mailto:info@sml-law.com)

### WANT TO REPRINT AN ARTICLE

A number of readers have asked to reprint articles in their own newsletters. Our policy is that readers may reprint an article as long as credit is given to both the newsletter and the firm. Please send us a copy of the issue of the newsletter which contains a reprint from Grey Areas.

# Grey Areas

## A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

standard of practice issues. Another one fifth of complaints dealt with communications issues.

Of the cases that were returned, about half were sent back for additional investigation and about half were sent back because the screening committee's decision was viewed as unreasonable. It will be interesting to see if the recent decision of the Divisional Court released in the middle of our review period, will result in closer scrutiny of the adequacy of investigations: [Kastner v. Health Professions Appeal and Review Board](#), 2023 ONSC 629 (CanLII).

Goudge noted that 60-70% of the reviews by HPARB originated from the College of Physicians and Surgeons of Ontario. That percentage is close to that figure, in our review (49% for the 2023 sampling, 62% from the 2022 sampling).

In just over half of the reviews the screening committee took no action. In the other reviews the actions varied from comments or advice, remedial agreements, cautions and remedial directions. Having said that, the reviews initiated by registrants (13% in the 2023 sampling, 10% from the 2022 sampling) almost always arose when the screening committee directed an outcome that would appear on the public register (e.g., caution in person, undertaking, remedial direction). This is an increase from the Goudge report (5% of reviews were initiated by registrants) which was written before such outcomes were generally posted on the public register.

The Goudge report noted the extensive backlog before HPARB. At that time, the average time from the commencement of the review to the rendering of the decision was 547 days. It is impossible from the HPARB decisions themselves to ascertain when the review was commenced. However, the average time for HPARB to render a decision once its review has been held is three months. Only a very few took longer than four months. Several decisions are rendered within one month of the review. The most recent

[annual report](#) for HPARB, available on its website, for 2019-2020, states that the average complaints review is completed within eleven months of initiation. This suggests that HPARB has significantly improved its timelines.

A few, more qualitative, observations from the recent HPARB cases are as follows:

- HPARB does not appear to expect that the complainant will receive disclosure of the entire regulator's file. In fact, HPARB has indicated that it is not even necessary for the complainant to always be given the opportunity to reply to the registrant's response to the complaint. The latter is a best practice.
- HPARB does, however, expect that if the complaint is expanded by additional submissions from the complainant, the registrant be informed and given an opportunity to respond. HPARB appears content to this being done within the original complaint process, at least where the new concerns are related to the original concerns, rather than by opening a new complaints file.
- HPARB allows some degree of flexibility in the regulator addressing concerns that are not part of the formal complaint. For example, comments and advice about gaps in the registrant's record keeping is often tolerated. Sometimes remedial measures can even address some of the additional concerns.
- HPARB recognizes that where action is taken on a concern (e.g., through a Registrar's investigation), additional measures may well not be necessary pursuant to a parallel or subsequent complaint.
- HPARB appears to support explicit risk-based approaches by the screening committee in determining the level of intervention. For example, conduct that is characterized as having a "low risk of harm" justifies a less

# Grey Areas

## A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

significant regulatory response by the screening committee.

- Where a regulator encourages individuals to first discuss concerns with registrants before making a formal complaint, complainants are still free to make complaints as their first action.
- HPARB makes extensive use of template reasons for decision. Recurring issues (e.g., the expertise of the screening committee in standards of practice matters, general acceptance of contemporaneous notes by registrants) often receive very similar treatment from case to case. In one decision HPARB even employed the wrong name of the screening committee for a veterinary screening review through its use of a human health review template.

- The reasonableness standard of review by HPARB should be altered to enable HPARB to substitute its own views more frequently.

Whatever one's views, it is clear that HPARB is a very busy tribunal.

Goudge's report states:

Nonetheless, I do not think that HPARB reviews should be eliminated, even from the perspective of efficiency alone. Because ICRC decisions constitute a statutory power of decision, there must be some mechanism to review them. In the absence of a statutory alternative, a dissatisfied party could seek to invoke the supervisory jurisdiction of the superior courts, which could be even more costly and time consuming. So the wisdom of having a specialized, expert review body does not appear open to serious question.

It is interesting, however, that one of the more extensive Canadian models for reviewing the screening of complaints confirms most of their decisions. Different people will draw different conclusions from this data. Some possible interpretations include:

- The system works.
- Regulators have learned from HPARB's guidance.





*From Julie Maciura*

## In This Issue

<b>Ontario Bills.....</b>	<b>2</b>
Bill 79, Working for Workers Act, 2023 .....	2
Bill 76, Respecting Workers in Health Care and in Related Fields Act, 2023 .....	2
Bill 60, Your Health Act, 2023 .....	2
<b>Proclamations.....</b>	<b>2</b>
There were no relevant proclamations this month. ....	2
<b>Regulations.....</b>	<b>2</b>
Personal Health Information Protection Act .....	2
Law Society Act .....	3
<b>Proposed Regulations Registry .....</b>	<b>3</b>
Various Profession Specific Acts under the RHPA.....	3
Veterinarians Act.....	3
Law Society Act .....	3
<b>Bonus Features .....</b>	<b>3</b>
Police Check Requirements.....	3
Has Vavilov Made a Difference? .....	4
Another Unfair Investigation .....	6
Amendment to the Council Elections By-Law Upheld .....	8
Sanctioning Guidelines.....	8

## Ontario Bills

([www.ola.org](http://www.ola.org))

**Bill 79, Working for Workers Act, 2023** (Government Bill, passed second reading, referred to the Standing Committee on Finance and Economic Affairs) Bill 79 will, among other things, expand the mandate of non-health regulators to consult with the government to ensure that “the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated professionals”.

**Bill 76, Respecting Workers in Health Care and in Related Fields Act, 2023** (Private Members’ Bill, first reading) Bill 76 would require certain minimum protections, compensation and benefits for health care workers.

**Bill 60, Your Health Act, 2023** (Government Bill, passed second reading, referred to the Standing Committee on Social Policy) Bill 60 will replace the *Independent Health Facilities Act* with a new regulatory regime, complete with standard setting, inspections, and complaints mechanisms, for the provision of health services (likely mostly diagnostic and procedures). The Bill will also make several statutory amendments to enable the creation, by regulation, of the As of Right proposal. The details are not included in the Bill. However, the Bill does pave the way for individuals to practise the following professions without registering with the relevant Ontario College: medical laboratory technologists, physicians, nurses, and respiratory therapists. Presumably the *Regulated Health Professions Act* already authorizes regulations to be passed exempting those individuals from performing controlled acts. The Bill will also expand the scope of practice of pharmacists “to include the assessment of conditions for the purposes of providing medication therapies.”

## Proclamations

([www.ontario.ca/search/ontario-gazette](http://www.ontario.ca/search/ontario-gazette))

There were no relevant proclamations this month.

## Regulations

(<https://www.ontario.ca/laws> Source Law - Regulations as Filed)

**Personal Health Information Protection Act** – Regulation will require custodians to provide personal health information in a prescribed electronic format for patients who request access to it. The regulation takes effect on July 1, 2023.



**Law Society Act** – Regulation permits the appointment of chairs to the discipline and hearing tribunals of a person that is not also a Benchers (director) (Ontario Regulation 47/23).

### Proposed Regulations Registry

([www.ontariocanada.com/registry/](http://www.ontariocanada.com/registry/))

**Various Profession Specific Acts under the RHPA** – Several consultations are ongoing related to emergency classes of registration. They have various comment due dates.

**Veterinarians Act** – The proposal would modernize the regulation of veterinary services including by better defining them, updating the complaints and discipline system, including veterinary technicians within the regulatory regime, and developing a formal quality assurance program. Comments are due May 30, 2023.

**Law Society Act** – The proposal would permit the permanent chair of the discipline tribunal to be a panel member in place of one of the spots on the panel reserved for elected Benchers (Board members). In addition, the proposal would permit motions before the discipline tribunal to be heard by one member panels. Comments were due March 17, 2023 (two weeks after posting). The regulation has been made since then, at least in part (see above).

### Bonus Features

*These include early drafts of some of the items that will appear in our blog:*

([www.sml-law.com/blog-regulation-pro/](http://www.sml-law.com/blog-regulation-pro/))

### Police Check Requirements

Many regulators require applicants for registration (and sometimes even current registrants) to obtain a police check to ensure their suitability to practise the profession. A recent court decision raises important issues about such requirements and the process for obtaining them: [\*Khorsand v. Toronto Police Services Board\*](#), 2023 ONSC 1270 (CanLII).

In that case, an applicant applied for a position as a Special Constable to work for Toronto Community Housing. A successful security check with the Toronto Police Services Board (TPSB) was required. The applicant was denied clearance. He was not given reasons for the decision or the information upon which the decision was based.

The Court held that there was a sufficiently public aspect to this decision that it was subject to judicial review. The entities involved (i.e., Community Housing and the TPSB) serve public interest purposes. While the facts of this case are different than for applicants for registration with a statutory regulatory body, it



is quite possible that a refusal of registration by an applicant because of an unsatisfactory police check would also be subject to judicial review. A significant factor in this case was concern that racialized people are “highly over-represented” in police contacts. A freedom of information request indicated that the applicant had extensive contact with the police that raised no concerns about his conduct, but which mentioned his racialized status repeatedly. The Court said: “This raises serious questions about what information was relied on in coming to the conclusion that he failed his background check and how systemic issues may have informed and affected the TPSB’s decision-making on this issue.”

Another comment by the Court may also be applicable to regulators:

The decision at issue affects not only [the applicant]’s rights. It also affects the public’s right to have confidence in the agencies who administer law enforcement in the community and to have those agencies made up of people who are representative of the communities they serve.

The Court concluded that procedural fairness was required in the circumstances:

Weighing all of these factors and the circumstances surrounding the decision at issue, I find that the TPSB breached its minimal duty of procedural fairness, which was (1) to give [the applicant] notice of the reasons why he failed his pre screen background check and copies of the information it was relying on making that decision (subject to a process to protect sensitive law enforcement information) and (2) an opportunity to dispute those reasons and information. Because the decision at issue was a pre screen decision, to comply with its duty of procedural fairness the TPSB must provide [the applicant] with the reasons why he failed his background check and a copy of the information relied upon to justify that failure.

While the decision applied to the TPSB, regulators requiring police checks are also likely to be affected by these considerations.

### ***Has Vavilov Made a Difference?***

The Supreme Court of Canada’s decision in [\*Canada \(Minister of Citizenship and Immigration\) v. Vavilov\*](#), 2019 SCC 65 (CanLII), [2019] 4 SCR 653, fundamentally altered the criteria for judicial scrutiny of administrative decisions. Three years in, it’s fair to ask: Has it made a difference?

Some involved in professional regulation speculated that *Vavilov* would have a significant impact. Disciplinary findings of professional misconduct or incompetence might be particularly vulnerable as they are typically subject to a statutory right of appeal, and *Vavilov* changed the way in which such appeals would be determined. Following *Vavilov*, legal issues including the interpretation of the enabling statute would now be reviewed on a correctness standard rather than the more deferential reasonableness standard. Would reasons for decision of a disciplinary panel, generally drafted by non-lawyers, be subject to more intense scrutiny? There were also questions about whether more or less deference would be given to factual issues on appeal, since these would now be subject to the palpable and overriding error test (instead of being reviewed for reasonableness).

In order to gauge the level of impact, we compared pre- and post-*Vavilov* disciplinary appeal decisions of the Ontario Divisional Court. A quantitative review of decisions of this Court in a defined area of law over the past three years compared to the three years before *Vavilov* should provide some information as to the degree that the altered standard of review has impacted administrative law.

### *Methodology*

The Divisional Court of Ontario is a quasi-specialist court that, among other things, hears almost all statutory appeals from professional discipline decisions. There is a degree of continuity for judges sitting on the Court that helps ensure a level of expertise in this area. The Court routinely cites *Vavilov* in its decisions on appeal from disciplinary findings when discussing the standard of review.

To minimize extraneous factors, we used the following criteria:

- Only statutory appeals were considered.
- Only discipline decisions from statutory regulators of professions were included.
- Only appeals of decisions on the issue of finding were counted. The test for reviewing penalty (sanction) decisions (namely, whether the order is unfit, or contains an error in principle) was unchanged by *Vavilov*.
- Appeals of rejected joint submissions were excluded as there is a different legal test for scrutinizing them.
- Appeals by the regulator (there were very few) were disregarded to avoid any implicit hesitancy to reverse a panel's conclusion in favour of a registrant.
- Where a decision was appealed to the Court of Appeal or the Supreme Court, we used the decision of the highest level of court.
- Where an appeal was partially successful, these were characterized as a reversal by the Court. We made one exception (for a pre-*Vavilov* decision) where the appeal was substantially unsuccessful.

### *Findings*

We located 30 qualifying decisions post-*Vavilov* (to February 14, 2023). Of those, 27 (90%) were upheld and three (10%) were reversed in whole or part. Of those reversed, two (6.7%) contained both errors of law and errors of fact. One (3%) was reversed on the basis of procedural unfairness.

In the three years immediately prior to *Vavilov*, of the 30 most recent qualifying decisions, 24 (80%) were upheld and six (20%) were reversed. In five of the reversed decisions (17%) the ground was unreasonableness. For one of those five decisions, there was also an error of law. In the remaining reversed decision (3%) there was procedural unfairness.

As a comparison, we examined Divisional Court decisions on the issue of penalty (sanction) before and after *Vavilov*. As noted, the test for scrutiny of penalty decisions did not change. In the three years since *Vavilov* we located 20 decisions, of which only one (5%) was reversed. However, of the 20 most recent decisions on penalty before *Vavilov*, there were five (25%) reversals. Therefore, in both appeals of the findings and penalty appeals, there were fewer reversed decisions post-*Vavilov* than before. A possible

alternative explanation for the decrease in penalty reversals is that, shortly before *Vavilov*, the Court of Appeal reversed the Divisional Court and reinstated a disciplinary penalty in the case of [College of Physicians and Surgeons of Ontario v. Peirovy](#), 2018 ONCA 420 (CanLII), which might have reduced any interventionist tendencies on penalty matters.

Interestingly, the Alberta Court of Appeal has reversed a much higher percentage of disciplinary appeals since *Vavilov* than in Ontario (but fewer cases were heard than in Ontario). The Alberta Court of Appeal has decided seven cases since *Vavilov*, of which three (43%) were reversed. Of the seven most recent such cases before *Vavilov*, only one (14%) was reversed. Obviously, that is a very small sample. However, if this pattern holds, *Vavilov* may have had more of an impact in Alberta.

### *Discussion*

Even with the Ontario data, the sample sizes are small. In addition, a quantitative review can only tell part of the story. Each case is decided on its own facts and circumstances. Thus, it is difficult to make any definitive statements about the impact of *Vavilov* on statutory appeals of professional discipline decisions. However, based on this data, the concerns about disciplinary decisions becoming more vulnerable on appeal do not seem to have borne out. If anything, deference may even be enhanced in Ontario post-*Vavilov*, with 90% of disciplinary decisions being upheld, compared to 80% pre-*Vavilov*.

Whether factual issues, including credibility assessments, are being scrutinized more closely remains an open question and is not clear from a purely quantitative review (Professor Paul Daly has written that the palpable and overriding error standard is more deferential than reasonableness, and also that there may be a push for the two standards to converge: Paul Daly, *Unresolved Issues after Vavilov*, 2022 85-1 Saskatchewan Law Review, 2022 CanLII Docs 1412). The Divisional Court has made a point of emphasizing that the palpable and overriding error test is different from reasonableness review (for example in [Houghton v. Association of Ontario Land Surveyors](#), 2020 ONSC 863 (CanLII), and [Miller v. College of Optometrists of Ontario](#), 2020 ONSC 2573 (CanLII)). However, under both standards, a high level of deference will be shown to the initial decision-maker's assessment of a witness' credibility.

It is also worth monitoring whether the scrutiny of disciplinary decisions is variable across Canada. If so, there may be further evolution over the short term.

*This article was originally published by Law360 Canada, part of LexisNexis Canada Inc, at [Law360 Canada](#).*

### **Another Unfair Investigation**

Courts give significant deference to the investigative choices of regulators. However, twice in just over one month, Ontario's Divisional Court has found a regulator's investigation to be procedurally unfair. In late January there was the case of: [Kastner v. Health Professions Appeal and Review Board](#), 2023 ONSC 629 (CanLII), discussed in our [February 8, 2023, blog](#). In early March the Court released [Watson v. Law Society of Ontario](#), 2023 ONSC 1154 (CanLII).

In the latter case, serious allegations were raised about the registrant's (a lawyer) misappropriation of funds and falsifying of documents. Three of the allegations could even be characterized as constituting criminal conduct. The registrant insisted that he was primarily a business partner with the complainant (rather than their lawyer) and was owed the money kept. After a 56-day hearing, the allegations were withdrawn and dismissed because the extensive cross-examination of the complainant raised so many credibility concerns that there was no longer a reasonable prospect of a finding. The registrant sought his costs from the regulator, which request was denied.

The Court found that the investigation was one-sided and unfair. Basic corporate and financial documents, that upheld the registrant's position that they were a business partner of the complainant entitled to payment, were not sought or analyzed when obtained. The most obvious example was not obtaining the officially filed version of corporate documents that disproved the complainant's allegation that they had been altered and fraudulently filed by the registrant. The Court said: "Merely taking the complainant's word at face value without testing it by reference to documents other than the ones she herself provided, is not consistent with procedural fairness."

The Court was troubled by the investigator filing a final report before interviewing the registrant. The subsequent interview did not include seeking the registrant's explanation for some of the more serious allegations and did not result in a supplementary report. This concern was aggravated by the regulator's failure to disclose relevant information and failure to agree to reasonable production requests (from the complainant). The Court also commented on the regulator taking the legally incorrect position that its disclosure obligations only applied to evidence intended to prove the allegations and not also to evidence that would support the registrant's defence, including evidence going to the credibility of the complainant.

The Court disagreed with the regulator's reliance on its policy for investigating allegations of a sexual nature to justify not critically assessing the credibility of the complainant nor seeking corroboration of the allegations. While the policy was an appropriate stance for allegations of a sexual nature, where there often are no other witnesses and few documents, that approach was entirely inappropriate for the type of allegations in this kind of "documents" case.

Despite these deficiencies, the Court found there was no palpable and overriding error in denying the registrant's costs on the basis that the referral to a hearing was unwarranted. There was sufficient evidence of serious concerns warranting a hearing to assess the credibility issues even if an adequate investigation had been conducted. On this point, the Court indicated that the tribunal should assess all of the information in the reasonable possession of the regulator, and not just the information provided to the screening committee.

However, under the applicable provisions for this regulator, costs could also be awarded to the registrant on the basis that the regulator had acted with undue delay, negligence or other default. Given the gaps in the investigation and the questionable positions taken by the regulator during the hearing, the Court returned that issue to be determined by a differently constituted panel.

While Courts still afford significant deference to regulatory investigations, they must be even-handed, balanced, proportionate to the circumstances, and fair to the registrant.

### ***Amendment to the Council Elections By-Law Upheld***

The value of a sound policy-making process was demonstrated in the recent decision of [Hardick v. College of Chiropractors of Ontario](#), 2023 ONSC 1479 (CanLII). In that case the regulator amended its election by-law to extend the period, from three years to six years, of disqualification for being elected to the Council after having been disciplined. The change was made after the registrant, who had been disciplined five years previously, indicated an interest in running for election. The registrant brought an application for judicial review challenging the validity of the by-law and sought a stay to enable him to seek office in the upcoming Council election. He argued that the by-law was amended in bad faith and for an improper purpose. He also argued that the by-law had an impermissible retrospective effect.

The Court refused to issue the requested stay. The Court found that the amendment was a good faith attempt to adopt best practices and that the Council had expressly turned its mind to whether it should apply to the upcoming election. For more details see the upcoming April issue of [Grey Areas](#).

### ***Sanctioning Guidelines***

An Alberta judge's comments on the need for courts to develop sentencing guidelines in criminal matters may have application for professional regulators. In [R v Quintero-Gelvez](#), 2023 ABCA 64 (CanLII), the court was wrestling with the length of a prison term for the defendant who engaged in sexual assault. While the entire court upheld the lower court's decision for a period of incarceration of 4.5 years, one judge wrote at length about the need for courts to establish more sentencing guidelines.

The judge wrote that guidelines:

provide sentencers with a rational analytical sentencing framework that introduces “a common methodology” and ultimately produces more consistent sentencing patterns – offenders who are similarly situated and commit similar crimes receive similar sentences. Parliament and reasonable informed members of the public expect nothing less of our sentencing process. “Without guidelines, sentencers following generally accepted sentencing principles produce erratic and irrational sentencing patterns”. This is inevitable. And it undermines public confidence in the administration of justice. [citations omitted]

Given the failure of Parliament to issue such guidelines, it was left for appeal courts to do so. The judge, who had developed such guidelines in the past, stated it was a “task that requires hundreds of hours of the architect's time”.

The judge suggested that ordinarily three subsets of ranges were optimal: egregious, more egregious, and most egregious. The judge then looked at indicators that would place the conduct within each of the three subsets. In the context of sexual assault of an adult, certain forms of non-consensual contact would generally be viewed as intrusive and typically causing greater physical and psychological harm. Other forms of contact would generally be considered less intrusive and harmful. Still other action would fall between those extremes. The judge gave explicit examples of actions falling within each of the three ranges.

The judge then looked for a maximum and minimum range for all of the subsets. The maximum, ten years, was set by legislation. While there was no minimum, the judge assessed that it would likely be about four years for the most egregious subset. The judge then assessed the minimum and maximum range for each subset. The ranges overlapped. For example, the top of the range for the middle subset (five years for more egregious sexual assaults) was higher than the lowest part of the range for the highest subset (four years for the most egregious sexual assaults). This part of the judge's analysis might be viewed as controversial in the context of sexual assault.

The judge then discussed how aggravating and mitigating factors can be considered to adjust the sentence within the range. In some circumstances, extraordinary mitigating factors might even adjust a sentence downward below the usual floor of the range.

The judge indicated that the suitability of the sentence should still be assessed by considering the goals of sentencing. For example, does the overall sentence adequately denounce the conduct, provide general deterrence, and adequately protect the public? These considerations might affect the form of the sentence (e.g., prison, home confinement, etc.). The judge also identified a guilty plea as a separate and significant consideration.

Given that professional discipline proceedings rely on the expertise of a specialist tribunal, it likely is not appropriate for courts to establish sanctioning guidelines for those cases. Also, the types of sanctions available (reprimands, restrictions, remediation, ongoing supervision, in addition to suspensions) are not within the expertise of courts. The judge in this case suggested that it is challenging for an adjudicator in an individual case to perform all the work necessary to establish a guideline. As a result, if this approach is to be adopted by regulators, guidelines probably need to be developed by staff and regulators' discipline tribunals through a policy-making process.

*From Julie Maciura*

## In This Issue

<b>Ontario Bills.....</b>	<b>2</b>
Bill 98, Better Schools and Student Outcomes Act, 2023 .....	2
Bill 95, Making the Patient Ombudsman an Officer of the Assembly Act, 2023 .....	2
Bill 92, Transparent and Accountable Health Care Act, 2023 .....	2
Bill 91, Less Red Tape, Stronger Economy Act, 2023 .....	2
Bill 79, Working for Workers Act, 2023 .....	2
Bill 60, Your Health Act, 2023 .....	2
<b>Proclamations.....</b>	<b>3</b>
There were no relevant proclamations this month. ....	3
<b>Regulations.....</b>	<b>3</b>
Health Protection and Promotion Act .....	3
<b>Proposed Regulations Registry .....</b>	<b>3</b>
Various Profession Specific Acts under the RHPA.....	3
Veterinarians Act.....	3
Better Schools and Student Outcomes Act, 2023.....	3
Private Career Colleges Act, 2005.....	3
<b>Bonus Features .....</b>	<b>3</b>
Understanding Retrospectivity .....	4
Leeway .....	5
Unanswered Questions.....	5
Use of Unconventional Procedures .....	7
Another Option to Prevent Harassment of Regulatory Staff .....	8
Accommodations Require Evidence .....	10
Another Investigation Proceeds.....	11



## Ontario Bills

([www.ola.org](http://www.ola.org))

**Bill 98, Better Schools and Student Outcomes Act, 2023** – (Government Bill, passed second reading and referred to the Standing Committee on Social Policy) Bill 98 has received significant media attention related to its proposed authority for the government to direct school boards on certain matters. However, the Bill will also amend various provisions related to the College of Early Childhood Educators and the Ontario College of Teachers. For example, the complaints screening committees will be able to direct registrants to attend for a caution or to complete mandatory remediation. Funding for students who have been sexually abused is expanded to circumstances where the abuser did not supervise the student. Education for registration, including in mathematics, can be required of candidates for registration.

**Bill 95, Making the Patient Ombudsman an Officer of the Assembly Act, 2023** – (Private Members' Bill, first reading) Bill 95 would make the Patient Ombudsman an officer of the Legislative Assembly rather than a government appointee.

**Bill 92, Transparent and Accountable Health Care Act, 2023** – (Private Members' Bill, first reading) Bill 92 would require major health sector organizations and suppliers (which are persons or entities that receives directly or indirectly at least \$1 million in public funds in a year from major health sector organizations or from other publicly-funded suppliers) to comply with public sector salary disclosure rules.

**Bill 91, Less Red Tape, Stronger Economy Act, 2023** – (Government Bill, passed second reading and referred to the Standing Committee on Justice Policy) Schedule 29 of Bill 91 removes the word "Private" from the name of private career colleges, provides for a review of the legislation every five years, and facilitates enforcement of administrative financial penalties (e.g., for illegal operation).

**Bill 79, Working for Workers Act, 2023** – (Government Bill, second reading, under consideration by the Standing Committee on Finance and Economic Affairs) Bill 79 will, among other things, expand the mandate of non-health regulators to consult with the government to ensure that "the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated professionals".

**Bill 60, Your Health Act, 2023** – (Government Bill, Third Reading Vote deferred) Bill 60 will replace the *Independent Health Facilities Act* with a new regulatory regime, complete with standard setting, inspections, and complaints mechanisms, for the provision of health services (likely mostly diagnostic and procedures). The Bill will also make several statutory amendments to enable the creation, by regulation, of the As of Right proposal. The details are not included in the Bill. However, the Bill does pave the way for individuals to practise the following professions without registering with the relevant Ontario College: medical laboratory technologists, physicians, nurses, and respiratory therapists. Presumably the *Regulated Health Professions Act* already authorizes regulations to be passed exempting those individuals from performing controlled acts. The Bill will also expand the scope of practice of pharmacists "to include the assessment of conditions for the purposes of providing medication therapies."



### Proclamations

([www.ontario.ca/search/ontario-gazette](http://www.ontario.ca/search/ontario-gazette))

There were no relevant proclamations this month.

### Regulations

(<https://www.ontario.ca/laws> Source Law - Regulations as Filed)

**Health Protection and Promotion Act** – Regulations authorize a Medical Officer of Health to require a laboratory to test whether a dead animal had contagious rabies and contemplates the administration of a rabies vaccination by a delegate of a veterinarian, not just a veterinarian, and includes administration in other jurisdictions in the United States and Canada (Ontario Regulations 67/23 and 68/23).

### Proposed Regulations Registry

([www.ontariocanada.com/registry/](http://www.ontariocanada.com/registry/))

**Various Profession Specific Acts under the RHPA** – Several consultations are ongoing related to emergency classes of registration. They have various comment due dates.

**Veterinarians Act** – The proposal would modernize the regulation of veterinary services including by better defining them, updating the complaints and discipline system, include veterinary technicians within the regulatory regime, and develop a formal quality assurance program. Comments are due May 30, 2023.

**Better Schools and Student Outcomes Act, 2023** – Consultation on Bill 98, related to education and educational professionals, will occur in parallel to the Bill's enactment. Comments are due May 16, 2023.

**Private Career Colleges Act, 2005** – Consultation on Schedule 29 of Bill 91, related to career colleges that removes the word “private” from their name, requires more frequent reviews of the legislation, and permits better enforcement of administrative penalties. Comments are due May 18, 2023.

### Bonus Features

*These include some of the items that will appear in our blog:*

([www.sml-law.com/blog-regulation-pro/](http://www.sml-law.com/blog-regulation-pro/))

### ***Understanding Retrospectivity***

A good way to watch someone's eyes glaze over is to discuss the concept of retrospectivity of legislation. However, the concept is an important one for regulators whose legislation is frequently amended. Do the new regulatory provisions apply to events that occurred before their enactment? A recent Divisional Court case provides a relatively accessible overview of the principles that apply: [\*Grimstead v. Ontario College of Teachers\*](#), 2023 ONSC 1801.

The registrant, a teacher, was convicted in 2008 for common assault of a 17-year-old student. It was agreed that the physical contact was of a sexual nature. In 2009, the regulator suspended the teacher's certificate for two years for the sexual abuse of the student. There were also terms and conditions for reinstatement including obtaining the opinion from a psychologist that there was no risk of harm if the teacher was reinstated. The teacher's certificate was reinstated in 2011, and the teacher obtained a pardon of their criminal conviction in 2019.

In 2020, the applicable regulatory legislation was amended requiring the automatic revocation of the teacher's certificate because of the finding of sexual abuse. (To complicate things further, the teacher's certificate was temporarily reinstated pending the hearing because of another provision in the legislation addressing teachers who had been pardoned.) The teacher was required to demonstrate to the discipline panel that they were a suitable candidate for reinstatement. The panel concluded that reinstatement was not in the public interest and again revoked the teaching certificate.

The teacher argued that the 2020 statutory amendments did not apply retrospectively to prior conduct. The Court disagreed, making the following points:

1. There is a rebuttable presumption that legislation is not intended to apply to conduct that occurred before its enactment.
2. However, that presumption can be rebutted by express language or necessary implication where it appears that the legislature has turned its mind to the unfairness of applying the new provisions to past conduct and determined that the benefits of public protection outweighed the unfairness.
3. Even where the presumption is not rebutted by the wording of the enactment, the provisions may have retrospective effect where the new prejudicial consequence is designed to protect the public rather than add punishment to the prior event.

In this case, the Court held that point two, above, was most relevant. The language of the legislative amendments made it obvious that the new rule was intended to apply to the teacher's circumstances. This language distinguished this case from others in which the presumption against retrospectivity was found to apply. The Court also held that the two previous reinstatements of the teacher did not create an acquired right or entitlement.

The Court also did not find the panel's application of the public interest to be unreasonable. The conduct in issue was among the most serious form of misconduct a teacher can commit. The teacher's evidence of good character and rehabilitation did not demonstrate that the teacher had fully addressed the issues that contributed to the misconduct. Concerns about lack of insight and accountability remained. Also, reinstatement would negatively affect the public's trust and confidence in the teaching profession.

The revocation stood.

### ***Leeway***

There are certain core principles for tribunals when they write reasons for their decisions. The bad news is that it is easy to violate those principles. The good news is that reviewing bodies and courts give a bit of leeway if, overall, the reasons for decision provide justification, transparency, and intelligibility for the outcome.

For example, in [\*Eley v. Ontario Securities Commission\*](#), 2023 ONSC 2168 (CanLII), a regulator found that a registrant had altered, directed the altering of, or was wilfully blind to the alteration of client documents in an investment context. The regulator’s decision was upheld by the reviewing tribunal, and the tribunal’s decision was upheld by the Court. The challenges to the regulator’s decision were based largely on the wording of their reasons for it.

The first argument was that the regulator had reversed the burden of proof when it said that the registrant’s evidence had not persuaded it that the registrant had not participated in or knew about the altered documents. Reversing the burden of proof is a serious and fundamental legal error. While the language used was unfortunate, the tribunal and Court found that “a fair and contextual reading of the reasons as a whole” demonstrated that the burden had not been reversed. The regulator was simply saying that it did not find the registrant credible in his denial of involvement.

Similarly, the reviewing tribunal and Court found that the regulator had not made a legal error in finding that the registrant was not credible. The registrant’s lack of credibility did not automatically mean that the allegations had been proven. The regulator appreciated that even if it did not believe the registrant’s explanations, the allegations still had to be established by positive evidence. In this case, there was ample evidence to do that.

The reviewing tribunal and Court also found that the regulator had drawn reasonable and logical inferences about the registrant’s involvement in the altered documents based on the direct and circumstantial evidence tendered during the hearing. This evidence included the documents themselves, where the alterations were so obvious that the registrant must have recognized them, even if he did not directly or indirectly make them himself.

The regulator also made some factual errors which are often a basis for reversing a decision. Here, during the sanctioning phase of the hearing, the regulator referred to conduct that was not part of the statement of allegations. The regulator also referenced some items that it found to be innocuous and part of acceptable industry practice when discussing the registrant’s “pattern of behaviour”. However, these mistakes were related to peripheral items and there were so many established illustrations that the errors did not detract from the overall findings on the merits or on the sanctions imposed.

Reasons do not need to be perfect.

### ***Unanswered Questions***

Every now and then there are cases raising important legal and regulatory issues in which the decision does not satisfactorily address the concerns. [\*College of Chiropractors of British Columbia v Health Professions Review Board\*](#), 2023 BCSC 529 (CanLII), is such a case. There, a registrant filed two complaints

against two other registrants who were on the board of directors of the regulatory body. The complaints were filed on the eve of an election to the board. The respondents to the complaint were running for re-election. The by-laws provided that a candidate was ineligible for election if they were the subject of a complaint investigation. The complaints, about statements on the respondents' website, appeared to have some substance.

The Registrar for the regulator processed the complaints, on a very expedited basis, through a summary procedure and decided to take no action because they did not raise a serious matter (i.e., something that would likely result in terms and conditions or a suspension if it went to discipline). Under the legislation, the summary decision stood unless the screening committee intervened. After taking no action, the Registrar took some informal, educational measures, to encourage the respondents to consider making changes to their websites.

This scenario raises serious questions, including the following:

1. Should the public complaints process enable the disruption of the elections to the board of directors through the mere filing of a complaint?
2. Could the complaint be viewed as an abuse of process?
3. Should the complaints summary procedure process be used for a complaint made against members of the board of directors?
4. Should the Registrar be the person to review a complaint made against what is, in effect, the Registrar's boss? If so, should the Registrar involve a statutory committee, with publicly appointed members on it, to foster transparency and accountability?

The complainant sought a review before an independent tribunal. The tribunal reversed the Registrar's decision on the basis that the investigation was inadequate and that the decision was unreasonable, primarily because the Registrar had not involved the screening committee before deciding to take no action. The regulator sought judicial review. The Court reversed the tribunal's decision and reinstated the decision of the Registrar to take no action on the complaints.

The Court's decision was based on a highly technical analysis. The Court focused on the degree to which the complainant raised bias concerns in their original complaint, the legal structure of the summary complaints procedure, and the limited authority of the reviewing tribunal to assess the adequacy of the investigation and the reasonableness of the decision. For the most part, the Court sidestepped the broader issues raised by the scenario. The Court also did not address the issue of whether the decision-maker (rather than the parties to the complaint) should take the lead in defending its own decision.

The Court did discuss the value of a summary procedure for complaints:

The dispositions permitted the registrar to address matters that were not serious, as the legislation defines serious matters, without the spectre of disciplinary sanctions creating a fraught or adversarial atmosphere that interfered with a proactive and constructive approach.

However, regulators are left to deal with the broader issues raised by the case on a policy basis. Perhaps election and complaints procedures can be designed to avoid or reduce the unfortunate appearances of these kinds of situations.

### ***Use of Unconventional Procedures***

Physician regulators have historically struggled with the question of whether to restrict or sanction non-traditional activities by their registrants. In fact, in Ontario, the [enabling legislation](#) for the physician regulator was amended in 2000 to state:

**5.1** A member shall not be found guilty of professional misconduct or of incompetence... solely on the basis that the member practises a therapy that is non-traditional or that departs from the prevailing medical practice unless there is evidence that proves that the therapy poses a greater risk to a patient's health than the traditional or prevailing practice.

A recent decision provides some guidance on the issue: [Khan v. College of Physicians and Surgeons of Ontario](#), 2023 ONSC 2096 (CanLII). In that case the registrant, a physician, used several unconventional procedures to assess and treat cancer patients. After an 18-day hearing, the registrant was found to have engaged in professional misconduct and to be incompetent. In dismissing the registrant's appeal, the Court made the following points:

1. Expert witnesses could be qualified to express opinions even if they did not use the procedures in issue. Being knowledgeable of conventional procedures, familiar with the unconventional ones, and having researched the unconventional ones was sufficient.
2. A finding could be made that the registrant fell below the accepted standard of practice of the profession even though no specific standard was enacted in the regulations.
3. On a related note, the Court viewed the regulator's policy on Complementary/Alternative Medicine as "guidance as to the standard against which the actions of physicians will be assessed" even though it was not prescribed by law. Reliance on the policy in conjunction with the expert evidence was not an error in law.
4. The Court supported the hearing panel's discounting of anecdotal evidence, especially the registrant's conversation with another physician who used some of the procedures, as an insufficient basis for using the procedures.
5. There was no loss of jurisdiction or appearance of bias because two of the three physicians on the five-person panel were unable to complete the hearing.
6. The Court also supported the hearing panel's findings related to the registrant failing to obtain informed consent and the impropriety of billing of treatment services as palliative care.

In this case the Court found that there was a significant amount of evidence to support the findings of the discipline panel and that the panel's 269-page decision adequately explained the basis of its findings. Undoubtedly, the factual context, including the treatment of patients with diagnosed cancer and providing overly optimistic assurances to patients inconsistent with conventionally available test results, played a significant role in the outcome.

### ***Another Option to Prevent Harassment of Regulatory Staff***

The harassment of the staff of regulators has become a major issue in recent years. The genesis of such harassment varies but has included opposition to the regulator's activities related to the pandemic, aggressive tactics to defend against regulatory investigations and enforcement (the best defence is a good offence), and possibly the mental health status of the harassing individuals. Tactics have included posting personal information (e.g., names and pictures of staff) online, posting hateful comments about staff online, and even making reports of illegal conduct by staff to the police (e.g., describing the regulatory removal of files for an investigation as theft or burglary).

Regulators, like all employers, have a legal duty to protect their workers from harassment. Doing so is also essential for retaining good staff. A first line response can be administrative. Many regulators now have secured entrances to their physical premises, preventing harassers from entering anywhere but the reception area. Harassers have been limited to communicating in writing and with only one staff person. Some regulators have even restricted access to public meetings and hearings to virtual attendances. Remote work can also help reduce the stress, so long as the harasser does not obtain (or threaten to obtain) staff members' home addresses. In those circumstances, regulators have sometimes offered to pay for security measures for staff residences. Some regulators have even begun to withhold the names of staff members on communications and the identities of decision-makers in reasons for decision where harassment is reasonably foreseeable.

However, such measures do not protect against online or outside-of-the-office physical harassment where identities are known. An obvious option is to respond to social media and other public statements with factual information to rebut the allegations of the harasser. However, such a response often provokes more harassment. A communications response can also come across as unseemly for a public regulator and can create an appearance of bias.

Regulators have several legal options at their disposal, none of which are completely effective. Perhaps the most common legal option is to investigate and bring discipline (or incapacity) proceedings where the harasser is a registrant. See for example: [Zuk v Alberta Dental Association and College](#), 2018 ABCA 270 (CanLII). Such proceedings can take time, generate a constitutional freedom of expression argument, and can, again, result in allegations of an appearance of bias on the part of the regulator.

Another option can be to seek criminal harassment charges or a peace bond. However, as a practical matter, that option often requires persuading stretched law enforcement officers to take on the case. While the scope of criminal harassment is expanding, its focus tends to be on threats of violence or intimidation, or of stalking behaviour (physical or online). Some harassers are becoming increasingly sophisticated in not quite crossing that line (e.g., stating that they do not condone violence but would not be surprised if someone was pushed beyond the breaking point).

Another option is for the regulator to bring an action for defamation. However, anti-SLAPP legislation creates hurdles that may make it difficult for regulators to overcome. See, for example, [Ontario College of Teachers v. Bouragba](#), 2019 ONCA 1028 (CanLII). Courts have been protective of the right of registrants and others to make public statements about regulators that are false or unwelcome. For example, in [College of Physicians and Surgeons of Ontario v. O'Connor](#), 2022 ONSC 195 (CanLII), the Court refused to protect the identities of regulatory staff and investigators despite multiple postings by supporters of a

registrant that were angry in tone and threatened them with Nuremberg-type and criminal prosecutions for their actions. The Court viewed regulatory staff as being analogous to public servants. The values of an open and democratic society allow for criticism, even unfair criticism. Threatening legal action, even unfounded legal action, needed to be endured unless the postings threatened violence or “actual intimidation”.

A recent Alberta decision might suggest another legal option for regulators whose staff face harassment: [\*Alberta Health Services v Johnston\*](#), 2023 ABKB 209 (CanLII). The opening paragraph of that case reads as follows:

Kevin J. Johnston enjoyed a moment of notoriety as candidate for mayor of Calgary in 2021. During his mayoralty campaign, on his eponymous online talk show, and anytime there was a microphone nearby, Mr. Johnston spewed misinformation, conspiracy theories, and hate. Among his favourite targets were Alberta Health Services (“AHS”) and Sarah Nunn, who was employed by AHS as a public health inspector.

The Court gave the following example about Ms. Nunn:

On several occasions, Mr. Johnston engaged in rants on his show about Ms. Nunn. His rants about Ms. Nunn, were accompanied by pictures of Ms. Nunn and her family that he acquired from her unlocked social media accounts. His rants belittled Ms. Nunn and her husband and were filled with pejorative descriptions. His favourite description for Ms. Nunn was “terrorist”. At one point, he said that Ms. Nunn’s husband “looked retarded.” He reproduced pictures of Ms. Nunn’s family with the faces of her children obscured. The following screed is representative of his statements about Ms. Nunn:

If you’re friends with this Sarah Nunn person, when I’m mayor, you’re going to be investigated as well.... I intend to make this woman’s life miserable, I intend to destroy this woman’s life like she has destroyed the lives of Calgarians ....

In a lengthy analysis, the Court found that the AHS was a government actor that could not sue for defamation. This seems to go further than the protections offered under Ontario’s anti-SLAPP legislation.

However, the Court found that Ms. Nunn was in a different position. While the Court was not prepared to apply a tort of invasion of privacy or assault in these circumstances, the Court was willing to apply, and clarify, the tort of civil harassment. The elements of the tort are described by the Court as follows:

- (1) engaged in repeated communications, threats, insults, stalking, or other harassing behaviour in person or through or other means;
- (2) that he knew or ought to have known was unwelcome;
- (3) which impugn the dignity of the plaintiff, would cause a reasonable person to fear for her safety or the safety of her loved ones, or could foreseeably cause emotional distress; and
- (4) caused harm.



While the Court in this case found that the postings of Mr. Johnston did incite his followers to violence, as noted above, the Court also indicated that the tort would be available in other circumstances. Citing the Ontario case of [Caplan v. Atas](#), 2021 ONSC 670 (CanLII), the Court indicated that the tort was also available for where the statements “cause fear, anxiety, emotional upset or to impugn the dignity of the plaintiff, and the plaintiff suffers such harm”.

In addition to an injunction, the Court awarded a total of \$650,000 for damages under various headings, including \$100,000 general damages for the tort of harassment.

Regulators may now have a good precedent for another option in protecting their staff from harassment.

*This article was originally published by Law360 Canada, part of LexisNexis Canada Inc, at [Law360 Canada](#).*

### ***Accommodations Require Evidence***

Regulators frequently deal with accommodation issues related to a registrant experiencing disabilities. The issue can relate to procedure (e.g., requests for extensions and adjournments) and substance (e.g., a disability may have contributed to the conduct). In [Ballam v. Justices of the Peace Review Council](#), 2023 ONSC 2502 (CanLII), the Court held that regulators can require evidence to support requested accommodations.

In that case, a Justice of the Peace (JP) was on long-term disability leave. She was found to have engaged in the practice of law on three occasions without a licence, without insurance, and without having first resigned as a JP. The hearing panel recommended that she be removed from judicial office.

On judicial review, she argued that the hearing panel was procedurally unfair in proceeding with the hearing in the face of her disability. The Court found there had been no unfairness. The JP received multiple accommodations throughout the process including several extensions and adjournments and conducting the hearings intermittently on shortened and non-consecutive days. The panel offered to provide breaks as needed. The JP provided assurances during the hearing as to her ability to conduct the hearing. No recent evidence of ongoing inability to participate in the hearing was provided. There was no obligation on the hearing panel to inquire further as to the JP’s ability to participate in the hearing.

Similarly, the Court rejected the JP’s assertion “that although the Panel had significant evidence before it that she was not at full cognitive capacity when these acts occurred, it analyzed her conduct through the lens of an able-bodied person with full cognitive function.” The Court noted that “there is no reliable medical evidence to suggest that any cognitive disability was a significant contributing factor to her misbehaviour.” In addition, the JP’s “advocacy during both the misconduct and penalty hearings – while ultimately not successful – was lucid and relevant. Her written submissions following the hearing were capable and coherent. There was nothing of significance to suggest a cognitive deficit. To the extent her strategy during the litigation may be questioned, that does not signify lack of cognitive function but, at most, possible poor judgment.”

While there may be some circumstances in which it is incumbent upon regulators to inquire into a registrant’s capacity, this case was not one of them.



### ***Another Investigation Proceeds***

There have been several reported cases where registrants have been unsuccessful in trying to prevent an investigation of their conduct by their regulator. The most recent example is [\*Kustka v. College of Physicians and Surgeons of Ontario\*](#), 2023 ONSC 2325 (CanLII).

In that case, the registrant (a physician) was investigated for issuing two questionable medical exemptions from COVID-19 masking requirements and prescribing ivermectin to an elderly patient for the purpose of treating COVID-19. The registrant did not cooperate with the regulator and was subject to an interim order restricting and monitoring their practice and a separate investigation for failing to cooperate. The registrant and several patients brought judicial review applications challenging the investigation (including a challenge to the regulator obtaining access to the patient records) and the interim order. They relied on sections 7 and 8 of the *Canadian Charter of Rights and Freedoms* to challenge the validity of the enabling provisions. In dismissing the application, the Court made the following points:

- The patients did not have “private interest” standing (i.e., authority) to bring the application. Following [\*Kilian v. College of Physicians and Surgeons of Ontario\*](#), 2022 ONSC 5931 (CanLII), the Court found that the regulatory investigation was between the regulator and the registrant and patients had no direct interest in it. The patients’ expectation of privacy in their health records “is subject to the higher need to maintain appropriate standards in the profession”. That position has since been reaffirmed in [\*College of Physicians and Surgeons of Ontario v. Kilian\*](#), 2023 ONCA 281 (CanLII).
- Similarly, the patients did not meet the test for “public interest” standing to bring their application.
- Even though the registrant was challenging the constitutionality of the provisions authorizing the regulator’s actions, the application was premature. There is no right to prevent such an alleged *Charter* breach before it occurs.
- “The test for determining whether reasonable and probable grounds exist to appoint investigators under s. 75 of the Code is not rigorous.” It is lower than the “prima facie case” test, especially since the decision is only to commence an investigation. The complaint in this case “was sufficiently detailed as to be beyond mere suspicion”.
- In appointing the investigators, the regulator was entitled to rely on guidelines from government and health profession organizations about mask-wearing exemptions and the use of ivermectin.
- In imposing the interim restrictions, three instances were sufficient for the regulator to be reasonably concerned that the registrant was exposing patients to harm. This decision was reinforced by the registrant’s failure to cooperate fully with the investigation, which escalated the litigation and delayed the proceedings before the regulator.

The applications for judicial review were dismissed with costs of over \$4,000 ordered against the patients and almost \$25,000 ordered against the registrant.



## The College of Naturopaths of Ontario

### Understanding the Public Interest

In carrying out its objects, the College has a duty to serve and protect the public interest (section 3(3) of the Regulated Health Professions Act, 1991 (RHPA).

The term “public interest” is not defined in any legislation or regulation. What is the public interest?

- It is first and foremost a concept.
- It is contextual, the circumstances of decision-making help determine what it is.
- It is an unbiased concern for society.
- Places the benefit to the whole ahead of the benefit to a group, a few, or any one person.

Serving the public interest means ensuring the following.

- The public has access to professions of choice.
- Individuals are treated with sensitivity and respect.
- There are appropriate standards for the profession.
- There are ethical, safe, competent professionals and services.
- The patient interest is placed over professional interest.
- The principle-driven governance and operations are fair, objective, transparent and accountable.

The public interest is also about public protection and safety. Protecting the public from:

- Harm (physical, psychological, financial).
- Dishonesty and disrespect.
- Poor quality care.
- Sexual abuse.
- Breach of laws.
- Ineffective or unnecessary care.

In its deliberations, Council and Committees should consider the following factors.

- Is the decision fair to all parties?
- Is the decision objective, e.g. evidence-based?
- Is the decision impartial, e.g. made without bias?
- Is the decision transparent, e.g. are all of the relevant considerations clearly articulated and in the public domain?

Considerations/Questions to ask oneself during deliberations include:

- Does the matter relate to the College’s statutory objects (section 3(1) of the Code)?
- Does the decision further one of the College’s four regulatory activities?
- Is the decision being done transparently?
- Who is the primary beneficiary of the initiative?
- Would this better fit into another’s mandate (e.g. the educators, the associations)?
- Who would be unhappy with the initiative and why?

- How would it look on the front page of (any local or national newspaper) or on the evening newscast?
- How would our accountability bodies (e.g. the Government of Ontario, Office of the Fairness Commissioner, Health Professions Appeal Review Board) respond?
- Is our decision consistent with the mandate of the College (e.g. to ensure that Ontarians who wish to receive naturopathic services have access to individuals who have the knowledge, skill and judgment to practice safely, ethically and competently) and with other recent similar decisions.

What the public interest is NOT!

- Advancing the profession's self-interest (e.g. increasing fees charged by or earnings of the profession by limiting the number of members through creating barriers to access to the profession, or by expanding the scope of practice of the profession).
- Advancing personal interests of Council members (e.g. getting good PR in the profession in a re-election year).
- Advancing the interests of a small group of patients who feel that the general health care system is not serving them sufficiently (e.g. patients advocating for expanded scope for illness-specific purposes).

## UNDERSTANDING THE RISK ANALYSIS TERMINOLOGY

The risk analysis provided to Council as part of its briefing process is becoming more sophisticated. New terminology will begin to be introduced that may be unfamiliar to many Council members and stakeholders. The table below provides information to allow a reader to interpret the information being provided.

RISK CATEGORY	Risk Type	Type Description	Indicators
HAZARD	People	Loss of key people.	Sudden and unforeseen loss of CEO or senior staff due to resignation, retirement, death or illness.
	Property	Damage or destruction.	Property damage due to fire, weather event, earthquake etc.
	Liability	Claims, and cost of defense claims.	Cost of defending a liability claim or awards paid due to a liability claim.
	Net Income Loss	Net Income loss from hazards.	Loss of Net Income (after expenses) from any of the above noted hazard risks.
OPERATIONAL	People	Risks from people selected to run an organization.	Education, professional experience, staffing levels, employee surveys, customer surveys, compensation and experience benchmarking, incentives, authority levels, and management experience.
	Process	Procedures and practices of an organization.	Quality scorecards, analysis of errors, areas of increased activity or volume, review of outcomes, internal and external review, identification of high-risk areas, and quality of internal audit procedures.
	Systems	Technology or equipment owned by an organization.	Benchmark against industry standards, internal and external review, and analysis to determine stress points and weaknesses.
	External Events	Failure of others external to an organization.	Suppliers unable to provide or deliver supplies, or consultants unable to complete projects on time or on budget.

FINANCIAL	Market risk	Currency price, interest rates, commodity price, equity price, and liquidity risk.	Interest rates, savings, and return on investments.
	Credit risk	Risk of people in an organization lent money to defaulting.	If the College were to lend money or credit to Registrants, the risk of defaulting.
	Price risk	Risk of prices of an organization's products or services, price of assets bought or sold by an organization.	Price increases of supplies, consultants, and personnel.
STRATEGIC (external to an organization)	Economic environment	GDP changes, inflation, financial crises, and international trade.	GDP, CPI, and Interest rates.
	Demographics	Changing landscape of people, i.e., aging.	Aging population, lower birth rates.
	Political	Changes in the politics where an organization operates.	Changes in government or government policy, locally, regionally, or nationally.
	Reputation	Damage to the reputation of the organization based on decisions taken or perils encountered.	Confidence and trust of stakeholders, the public, and Registrants.

### Risk Treatment or Mitigation Techniques

Technique		Description	General Usage?
Avoidance		Stop or never do an activity to avoid any loss exposure	All risk categories
Modify			
	Separation	Isolate the loss exposures from one another to minimize impact of one loss. Relates to correlation of risks.	Financial risk
	Duplication	Use of back up or spares to keep in reserve to offset exposures.	Operational risk
	Diversify	Spread loss exposure over numerous projects, products, or markets.	Financial risk
Transfer		Transfer risk to another organization, typically an insurer.	Hazard risks
Retain		Assume the risk of loss within the organization, typically done when severity and frequency are both low and sometimes when frequency is high, but severity is always low.	Hazard, Operational
Exploit		Use the risk to your advantage	Strategic

To Treat or Not to Treat	Techniques
Do Not Treat	If potential impact is low and likelihood of occurring is low, do not need to treat the risk. May also choose not to treat a risk that has low potential impact and high likelihood in some circumstances.
Treat the risk	Treat a risk that has a high potential impact and high likelihood of occurring. Also treat a risk that has a high potential impact and low likelihood. Treatment methods <ol style="list-style-type: none"><li data-bbox="596 412 772 440">1. Avoidance</li><li data-bbox="596 448 1024 475">2. Change the likelihood or impact</li><li data-bbox="596 483 1472 511">3. Finance risk – transfer (insurance or hedging for market risk) or retain</li></ol>

## UNDERSTANDING THE COLLEGE'S COMMITMENT TO TRANSPARENCY

To help protect the public, the College and its Council are committed to transparency. This means providing Ontarians with the tools to make informed decisions, and ensuring that our own decision-making processes are easily understood.

The College and its Council have adopted the Transparency Principles developed by the Advisory Group for Regulatory Excellence (AGRE), a working group of health regulators, as the framework for its decisions.

The following table summarizes the transparency principles adopted by the Council.

Principle	Description
Information to foster trust.	The mandate of regulators is public protection and safety. The public needs access to appropriate information in order to trust that this system of self-regulation works effectively.
Improved patient choice and accountability.	Providing more information to the public has benefits, including improved patient choice and increased accountability for regulators.
Relevant, credible, and accurate information.	Any information provided should enhance the public's ability to make decisions or hold the regulator accountable. This information needs to be relevant, credible, and accurate.
Timely, accessible and contextual.	In order for information to be helpful to the public, it must be; a) timely, easy to find, understandable and, b) include context and explanation.
Confidentiality when it leads to better outcomes.	Certain regulatory processes intended to improve competence may lead to better outcomes for the public if they happen confidentially.
Balance.	Transparency discussions should balance the principles of public protection and accountability, with fairness and privacy.
Greater risk, greater transparency.	The greater the potential risk to the public, the more important transparency becomes.
Consistent approaches.	Information available from Colleges about Registrants and processes should be similar.



The College of Naturopaths of Ontario

**Council Meeting Evaluation**  
**March 29, 2023**  
**9 Evaluations Received**

Topic	Question	Data	Overall
Were issues discussed essential?	Please rate how essential you feel the issues covered in today's meeting were using a scale: 1 - Not all all essential to 5 - Very Essential.	0 @ 1 0 @ 2 2 @ 3 0 @ 4 7 @ 5	<b>4.5</b>
Achieve Objectives?	Please rate how well you feel the meeting met the intended objectives using the following scale: 1 - Not at all met to 5 - All objectives met.	0 @ 1 0 @ 2 0 @ 3 2 @ 4 7 @ 5	<b>4.8</b>
Time Management	Please rate how well you feel our time was managed at this meeting using the following scale: 1 - Not at all managed to 5 - Very well managed.	0 @ 1 0 @ 2 1 @ 3 1 @ 4 7 @ 5	<b>4.7</b>
Meeting Materials	Please rate how helpful you feel the meeting materials for today's meeting were using the following scale: 1 - Not at all helpful to 5 - Very helpful.	0 @ 1 0 @ 2 1 @ 3 1 @ 4 7 @ 5	<b>4.7</b>
Right People	Please rate the degree to which you felt the right people were in attendance at today's meeting using the following scale: 1 - None of the right people were here to 5 - All of the right people were here.	0 @ 1 0 @ 2 1 @ 3 2 @ 4 6 @ 5	<b>4.5</b>
Your Preparedness	Please rate how you feel your own level of preparedness was for today's meeting using the following scale: 1 - Not at all adequately prepared to 5 - More than adequately prepared.	0 @ 1 0 @ 2 2 @ 3 2 @ 4 5 @ 5	<b>4.3</b>
Group Preparedness	Please rate how you feel the level of preparedness of your Council	0 @ 1 0 @ 2 2 @ 3	<b>4.4</b>

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	colleagues was for today's meeting using the following scale: 1 - Not at all adequately prepared to 5 - More than adequately prepared.	1 @ 4 6 @ 5	
Interactions between Council members	Please rate how well you feel the interactions between Council members were facilitated using the following scale: 1 - Not well managed to 5 - Very well managed.	0 @ 1 0 @ 2 1 @ 3 2 @ 4 6 @ 5	4.5
What Worked Well	From the following list, please select the elements of today's meeting that worked well.		
	• Meeting agenda		9/9
	• Council member attendance		9/9
	• Council member participation		9/9
	• Facilitation (removal of barriers)		9/9
	• Ability to have meaningful discussions		7/9
	• Deliberations reflect the public interest		7/9
	• Decisions reflect the public interest		8/9
Areas of Improvement	From the following list, please select the elements of today's meeting that need improvement.		
	• Meeting agenda		0/9
	• Council member attendance		0/9
	• Council member participation		0/9
	• Facilitation (removal of barriers)		0/9
	• Ability to have meaningful discussions		2/9
	• Deliberations reflect the public interest		2/9
	• Decisions reflect the public interest		1/9
Things we should do	Are there things that you feel that the Council should be doing at its meetings that it is not presently doing?	Can you possibly start using the calendar in basecamp?	
Final Feedback	Couple of times myself and others had their hands raised to ask a question/give a comment and weren't acknowledged, or others had to wave their hands to get the moderator's attention.		
	I think it was inappropriate to have staff (beyond CEO and Agnes) in attendance during the discussion on resourcing/capital expenditures. It may have been uncomfortable for some members to ask questions based on the briefing note with staff present.		
	Great engagement by Council members today		

## Comparison of Evaluations by Meeting 2022-2023

	2021/22 Overall	2022-2023						
Topic		May 2022	July 2022	Sept 2022	Nov 2022	Jan 2023	Mar 2023	Ave
Were issues discussed essential? 1 – Not at all essential to 5 – Very Essential.	<b>4.5</b>	4.5	4.9	4.5	4.8	5	4.5	<b>4.7</b>
Achieve Objectives? 1 - Not at all met to 5 - All objectives met.	<b>4.8</b>	4.5	5	5	4.9	5	4.8	<b>4.9</b>
Time Management 1 - Not at all managed to 5 - Very well managed.	<b>4.7</b>	4.6	4.7	5	4.9	5	4.7	<b>4.8</b>
Meeting Materials 1 - Not at all helpful to 5 - Very helpful.	<b>4.8</b>	4.8	5	5	4.8	5	4.7	<b>4.9</b>
Right People 1 - None of the right people to 5 - All of the right people.	<b>4.7</b>	4.1	5	4.75	4.8	5	4.5	<b>4.7</b>
Your Preparedness 1 - Not at all adequately prepared to 5 - More than adequately prepared.	<b>4.6</b>	4.4	4.6	4.5	4.8	4.6	4.7	<b>4.6</b>
Group Preparedness 1 - Not at all adequate 5 - More than adequate.	<b>4.5</b>	4.4	4.9	4	4.8	4.7	4.4	<b>4.5</b>
Interactions between Council members 1 - Not well managed to 5 - Very well managed.	<b>4.6</b>	4.6	5	4.25	4.8	4.9	4.5	<b>4.7</b>
Number of Evaluations	<b>10.7</b>	9	7	4	9	8	9	<b>7.7</b>



## CANRA Announces the Start of Its National Examination Development Project

The Canadian Alliance of Naturopathic Regulatory Authorities (CANRA) is pleased to announce the launch of its examination development project that will see the creation of a national clinical practical examination. In support of this project, CANRA has retained a consultancy group to assist with developing national competencies and a clinical practical examination to be delivered across the country.

“Initiating the development of a national clinical practical examination is a key part of why we established the national alliance of naturopathic regulatory authorities”, says Andrew Parr, CANRA Chair. “Together we are stronger and better able to fulfil our role in providing public protection and safety. A uniform nationwide examination will ensure that all naturopaths across Canada have met the exact same standards at entry-to-practice: standards which ensure all naturopaths have the knowledge, skills, and judgement to practice safely, competently and ethically.”

Naturopathic stakeholders across Canada will soon be contacted by Keith Johnson, managing the project on behalf of Karen Coetzee, Tabasom Eftekari, and Giedre Johnson, who bring their expertise and considerable experience in the development of competencies and examinations to this project.

CANRA’s membership includes the naturopathic regulatory authorities in all Canadian provinces and territories where the profession is regulated, including Alberta, British Columbia, Manitoba, Northwest Territories, Ontario, and Saskatchewan. Its mission is to use our strength and voice to reinforce our collective mandate and the public we serve, and to provide collective support to regulatory bodies with limited resources by creating national resources to support all jurisdictions.

For more information, please contact Katie Cooper at [info@canra.info](mailto:info@canra.info).

Katie Cooper  
Executive Director  
CANRA  
May 1, 2023



The College of Naturopaths of Ontario

**Conflict of Interest  
Summary of Council Members Declarations 2022-2023**

Each year, the Council members are required to complete an annual Conflict of Interest Declaration that identify where real or perceived conflicts of interest may arise.

As set out in the College by-laws, a conflict of interest is:

**16.01 Definition**

For the purposes of this article, a conflict of interest exists where a reasonable person would conclude that a Council or Committee member's personal or financial interest may affect their judgment or the discharge of their duties to the College. A conflict of interest may be real or perceived, actual or potential, and direct or indirect.

Using an Annual Declaration Form, the College canvasses Council members about the potential for conflict in four areas:

Based on positions to which they are elected or appointed;  
Based on interests or entities that they own or possess;  
Based on interests from which they receive financial compensation or benefit;  
Based on any existing relationships that could compromise their judgement or decision-making.

The following potential conflicts have been declared by the Council members for the period April 1, 2022 to March 31, 2023.

**Elected or Appointed Positions**

Council Member	Interest	Explanation
None		

**Interests or Entities Owned**

Council Member	Interest	Explanation
None		

**Interests from which they receive Financial Compensation**

<b>Council Member</b>	<b>Interest</b>	<b>Explanation</b>
Dr. Shelley Burns, ND	Robert Schad Naturopathic Clinic (at CCNM) – PT Faculty	Provides supervision to students of CCNM at the clinic.

**Existing Relationships**

<b>Council Member</b>	<b>Interest</b>	<b>Explanation</b>
	<b>None</b>	

**Council Members**

The following is a list of Council members for the 2022-23 year and the date they took office for this program year<sup>1</sup>, the date they filed their Annual Conflict of Interest Declaration form and whether any conflict of interest declarations were made.

<b>Council Member</b>	<b>Date Assumed Office</b>	<b>Date Declaration Received</b>	<b>Any Declarations Made</b>
Dr. Amy Dobbie, ND	May 31, 2023	March 9, 2023	None
Dr. Jonathan Beatty, ND	May 25, 2022	March 29, 2023	None
Dr. Shelley Burns, ND	May 25, 2022	May 11, 2022	Yes
Dean Catherwood	May 25, 2022	May 10, 2022	None
Brook Dyson	May 25, 2022	May 25, 2022	None
Lisa Fenton	May 25, 2022	May 10, 2022	None
Dr. Anna Graczyk, ND	May 25, 2022	May 10, 2022	None
Tiffany Lloyd	May 25, 2022	May 17, 2022	None
Dr. Denis Marier	May 25, 2022	May 10, 2022	None
Sarah Griffiths-Savolaine	May 25, 2022	May 17, 2022	None
Paul Phillion	May 25, 2022	May 9, 2022	None
Dr. Jacob Scheer, ND	May 25, 2022	May 10, 2022	None
Dr. Jordan Sokoloski, ND	May 25, 2022	May 15, 2022	None
Dr. George Tardik, ND	May 25, 2022	May 17, 2022	None

A copy of each Council members' Annual Declaration Form is available on the [College's website](#).

Updated: March 29, 2023

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<sup>1</sup> Each year, the Council begins anew in May at its first Council meeting. This date will typically be the date of the first Council meeting in the cycle unless the individual was elected or appointed.



The College of Naturopaths of Ontario

## **Report from the Council Chair**

May 2023

This is the final Chair's Report of six for the current Council cycle and provides information for the period from March 1 to April 30, 2023.

In April, Andrew and I met with the new CEO of the OAND, Christine Charnock and OAND Board Chair Dr. Cyndi Gilbert, ND. We provided updates on some of the new College programs emphasised in the strategic plan, including the Regulatory Education Program. Our next meeting is scheduled for September and meetings between the senior leadership will continue to occur regularly. It is a priority to develop and maintain a relationship that supports each other and our mandates and thus benefits all of our stakeholders.

Andrew and I will be meeting with the senior leadership at CCNM in July.

As always, I encourage Council members not to hesitate to contact me should they have any questions, concerns, or should they wish to discuss any issue that may be before us.

Respectfully submitted,

Dr. Jordan Sokoloski, ND  
Council Chair  
23 May 2023



## The College of Naturopaths of Ontario

### REGULATORY OPERATIONS REPORT HIGHLIGHTS

The following are the highlights of the Regulatory Operations Report presented for the period ending April 30, 2023.

#### **Registration**

The College closed registration renewals for the 2023 registration year on March 31, 2023. After this date, Registrants who had not paid their annual registration fees or who had not completed their information return were issued a Notice of Intent to suspend which provided them with 30 days to cure the default or they would be suspended. Any suspensions will be reported in the next Regulatory Operations Report.

As of April 30, 2023, the College had 1639 Registrants in good standing who held a General class certificate of registration and 187 who held an Inactive class certificate of registration. There are also 24 Life Registrants.

The number of professional corporations has grown by just under 15% over the past year. There are now a total of 107 such corporations.

#### **Examinations**

The College examinations are operating as anticipated. In March-April, both a Biomedical Examination and a Clinical Practical Examination session were offered with 38 and 15 exam candidates respectively. All totaled, 494 candidates have been examined in the various iterations of the College's examinations (ETP and post-registration) this fiscal year. While these are not 441 unique individuals (ETP candidates sit a minimum of three exams), it does demonstrate the volume of on-going activity in the program area.

#### **Quality Assurance**

A total of 92 Peer & Practice Assessments have been completed this year thus far and 483 or 99.2% of Registrants who were required to submit their CE reporting have done so.

#### **Inspection Program**

Of importance within this program are inspections of new premises, which occur in two parts, as well as the second set of inspections now that we have passed the five-year mark when the regulation to effect. A total of 52 second inspections have been completed thus far.

Under this program, the College also receives occurrence reports when patients have adverse reactions to the administration of IVIT. A total of 18 type 1 occurrence reports have been

received and reviewed by the Inspection Committee, 14 of which were due a patient being referred to emergency services within five days of the administration of IVIT.

### **Complaints and Reports**

Typically, the College will receive approximately 20 complaints and initiate another 20 of its own investigations. This year, the numbers are significantly lower with only 14 complaints received to-day and only 6 CEO initiated investigations. Most common concerns relate to advertising, ineffective treatment, treating outside of scope and unprofessional conduct.

### **Hearings**

One pre-hearing conference was completed during this reporting period bringing the year-to-date number to four. It is important to note that in situations where a matter is not being contested, there are not always pre-hearing conferences held.

This year, five uncontested and two contested hearings were held. Uncontested hearings result in findings based on their very nature; however, contested hearings are situations where the College must prove the allegations made against a Registrant. In both contested matters, Helen Cohen (November 2022) and Richard Dodd (February 2023) the panels found that the Registrants had committed acts of professional misconduct. In both cases, the Registrant did not attend the hearing and in both cases, the panel revoked their certificate of registration (note, revocation is based on the facts of the matters not whether a Registrant attends the hearing).

### **Regulatory Guidance**

The data for March-April indicates a steady number of inquiries by phone calls and e-mails for regulatory guidance and support. Once again, determining what is within the scope of practice, lab testing, and telepractice remain the top areas of questioning, as well as inquiries about the inspection program, notifying patients when moving and grads practising with Registrants saw an increase over this period.

Respectfully submitted,

Andrew Parr, CAE  
Chief Executive Officer  
May 23, 2023





The College of Naturopaths of Ontario

## Report on Regulatory Operations

Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
<b>1.1 Regulatory Activity: Registration</b>							
<b>Registrants (Total)</b>							<b>1881</b>
General Class							<b>1661</b>
In Good Standing	1561	1574	1595	1615	1629	1639	1639
Suspended	16	13	16	19	20	22	22
Inactive Class							<b>196</b>
In Good Standing	5	162	160	165	171	187	187
Suspended	8	8	9	9	9	9	9
Life Members	22	22	22	22	24	24	24
<b>Changes in Registration Status</b>							
Suspensions	10	0	4	3	4	5	26
Resignations	4	0	1	2	2	19	28
Revocations	3	0	9	0	1	0	13
Reinstatements	3	3	1	1	1	6	15
Class Changes							
GC to IN	0	1	1	3	8	20	33
IN to GC (< 2 years)	0	1	1	1	2	5	10
IN to GC (> 2 years)	0	0	0	0	0	0	0
Life Membership Applications							
Approved	0	0	0	0	1	1	2
Not Approved	0	0	0	0	0	0	0
<b>Professional Corporations (Total)</b>							
New applications approved	0	3	2	3	5	1	14
Renewed	14	15	12	22	15	17	95
Revoked	0	0	0	0	0	0	0
Resigned/Dissolved	0	1	0	1	0	0	2
<b>1.2 Regulatory Activity: Entry-to-Practise</b>							
New applications received	10	3	31	28	5	31	108
On-going applications	20	11	33	57	23	32	32
Certificates issued	11	9	4	39	18	19	100
Referred to RC	1	0	2	1	2	0	5
Approved	1	0	0	1	1	0	3
Approved – TCLs	0	0	0	0	0	0	0
Approved – Exams required	0	0	0	0	0	0	0
Approved – Education required	0	0	0	0	0	0	0
Denied	0	0	0	0	0	0	0
Regulatory Activity	May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
<b>1.2 Regulatory Activity: Entry-to-Practise continued</b>							
PLAR Applications							0
New	0	0	1	0	0	0	1
On-going	1	1	1	2	1	1	1
<b>1.3 Regulatory Activity: Examinations</b>							
CSE							
Scheduled	0	1	0	0	1	0	2
Held	0	1	0	0	1	0	2
Candidates	N/A	98	N/A	N/A	46	N/A	144
BME							
Scheduled	0	0	1	0	0	1	2
Held	0	0	1	0	0	1	2
Candidates	N/A	N/A	95	N/A	N/A	38	133
Clinical Practical Exam							
Scheduled	0	1	1	0	1	1	4
Held	0	1	1	0	1	1	4

	Candidates	N/A	46	44	N/A	40	15	145
	Therapeutic Prescribing							
	Scheduled	0	0	1	0	0	0	1
	Held	0	0	1	0	0	0	1
	Candidates	N/A	N/A	31	N/A	N/A	N/A	31
	IVIT							
	Scheduled	1	0	0	1	0	0	2
	Held	1	0	0	1	0	0	2
	Candidates	19	N/A	N/A	22	N/A	N/A	41
	Exam Appeals							
	CSE				1		1	
	*** Granted	0	0	0	0	0	1	1
	*** Denied	0	0	0	1	0	0	1
	BME							
	*** Granted	0	0	0	0	0	0	0
	*** Denied	0	0	0	0	0	0	0
	Clinical Practical							
	*** Granted	0	0	0	0	0	0	0
	*** Denied	0	0	0	0	0	0	0
	Therapeutic prescribing							
	*** Granted	0	0	0	0	0	0	0
	*** Denied	0	0	0	0	0	0	0
	IVIT							
	*** Granted	0	0	0	0	0	0	0
	*** Denied	0	0	0	0	0	0	0
	Exam Question Development							
	*** CSE questions developed	0	0	0	0	0		0
	*** BME questions developed	0	83	0	0	0		83
	<b>Regulatory Activity</b>	<b>May-Jun</b>	<b>Jul-Aug</b>	<b>Sep-Oct</b>	<b>Nov-Dec</b>	<b>Jan-Feb</b>	<b>Mar-Apr</b>	<b>YTD</b>
	<b>1.4 Regulatory Activity: Patient Relations</b>							
	Funding applications							
	New applications	0	0	0	0	0	0	0
	Funding application approved	0	0	0	0	0	0	0
	Funding application declined	0	0	0	0	0	0	0
	Number of Active Files	5	5	5	5	5	5	5
	Funding Provided	\$1,320	\$325	\$730	2,640	\$1,690	\$2,510	\$9,205
	<b>1.5 Regulatory Activity: Quality Assurance</b>							
	Peer & Practice Assessments							
	Scheduled	0	0	45	44	2	1	92
	Completed	0	0	45	44	2	1	92
	CE Reporting							
	Number in group	0	0	487	0	0	0	487
	Number received	0	0	483	0	0	0	483
	P&P Assessment required	0	0	0	0	0	0	0
	QAC Reviews							
	Accepted	0	0	0	0	0	0	0
	Work Required	0	0	0	0	0	0	0
	QAC Referrals to ICRC	0	0	0	1	0	0	1
	<b>1.6 Regulatory Activity: Inspection Program</b>							
	New premises registered	3	7	2	3	1	3	19
	New Premise Inspection							
	Part I Scheduled	0	3	10	4	2	2	21
	Part I Completed	0	3	10	4	2	2	21
	Part II Scheduled	5	1	0	1	1	6	14
	Part II Completed	5	1	0	1	1	6	14
	New premises-outcomes							
	Passed	6	1	8	4	6	5	30
	Pass with conditions	0	2	1	5	1	1	10

	Failed	0	0	0	0	0	0	0
Secondary Inspections								
	Scheduled	6	2	8	6	8	5	35
	Completed	6	2	8	6	8	5	35
Second inspections								
	Passed	9	2	4	8	5	10	38
	Pass with conditions	3	0	1	3	1	6	14
	Failed	0	0	0	0	0	0	0
Type 1 Occurrence Reports								
	Patient referred to emergency	4	1	3	1	2	3	14
	Patient died	1	0	0	1	0	0	2
	Emergency drug administered	0	0	0	1	0	1	2
Regulatory Activity		May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
<b>1.7 Regulatory Activity: Complaints and Reports</b>								
New complaints/reports								
	Complaints	1	7	1	3	1	1	14
	CEO Initiated	1	1	1	1	1	1	6
ICRC Outcomes								
	Letter of Counsel	6	2	5	2	0	0	15
	SCERP	4	0	0	0	0	1	5
	Oral Caution	1	0	0	1	0	0	2
	SCERP & Caution	0	1	1	0	0	1	3
	No action needed	3	1	0	0	4	1	9
	Referred to DC	0	6	3	0	0	0	9
Summary of concerns								
	Advertising	0	2	1	2	0	0	5
	Failure to comply	1	1	0	0	0	0	2
	Ineffective treatment	0	4	1	0	0	1	6
	Out of scope	0	2	2	1	0	1	6
	Record keeping	0	2	0	0	0	0	2
	Fees & billing	0	2	1	1	1	1	6
	Lab testing	0	0	0	0	0	0	0
	Delegation	0	0	0	0	0	0	0
	Harassment	1	0	0	0	0	0	1
	QA Program comply	0	0	0	0	1	0	1
	C&D compliance	0	0	0	0	0	0	0
	Failure to cooperate	0	0	0	0	0	0	0
	Boundary issues	1	0	0	0	0	0	1
	Practising while suspend.	0	1	0	1	0	0	2
	Unprofessional, unbecoming conduct	2	1	1	0	1	0	5
<b>1.8 Regulatory Activity: Cease &amp; Desist</b>								
	C&D Issued	0	2	1	0	1	0	4
	C&D Signed	0	1	0	0	1	0	2
	Injunctions	0	0	0	0	0	0	0
	Sought	0	0	0	0	0	0	0
	Approved	0	0	0	0	0	0	0
	Denied	0	0	0	0	0	0	0
<b>1.9 Regulatory Activity: Hearings</b>								
Pre-hearing conferences								
	Scheduled	0	0	0	2	0	1	3
	Completed	1	0	0	0	2	1	4
Discipline hearings								
	Contested	0	0	0	1	1	0	2
	Uncontested	2	0	1	2	0	0	5
Contested Outcomes								
	Findings made	0	0	0	0	1	0	1
	No findings made	0	0	0	0	0	0	0
	FTP Hearings	0	0	0	0	0	0	0

Regulatory Activity		May-Jun	Jul-Aug	Sep-Oct	Nov-Dec	Jan-Feb	Mar-Apr	YTD
<b>1.10 Regulatory Activity: Regulatory Guidance</b>								
	Inquiries							
	E-mail	56	47	54	48	70	65	340
	Telephone	54	35	44	44	62	51	290
	Top inquiries							
	COVID-19	7	0	0	0	0	0	7
	Scope of practice	9	6	11	8	11	9	54
	Conflict of interest	6	0	0	0	0	0	6
	Tele-practice	4	8	9	7	7	10	45
	Inspection program	10	6	0	5	0	6	27
	Patient visits	9	6	6	8	0	0	29
	Advertising	0	2	3	0	6	0	11
	Lab testing	4	6	5	4	0	6	25
	Notifying patients when moving	0	0	0	5	0	5	10
	Fees & billing	10	7	12	13	5	7	54
	Record keeping	0	0	9	5	6	0	20
	Consent and Privacy	4	4	0	5	0	0	13
	Grads Practising with Registrant	0	3	0	0	0	4	7
	Injections	0	6	0	0	5	4	15
	Discharging a patient	0	0	3	0	6	0	3
	Registration & CPR	0	0	8	0	8	0	8
	Prescribing	0	0	0	0	6	6	12
	Delegation and Referrals	6	0	3	4	6	7	26
<b>1.11 Regulatory Activity: HPARB Appeals</b>								
	RC Appeals							
	Filed	0	0	0	0	0	0	0
	Upheld	0	0	0	0	0	0	0
	Returned	0	0	0	0	0	0	0
	Pending	0	0	0	0	0	0	0
	ICRC Appeals							
	Filed	0	2	0	0	0	0	2
	Upheld	0	0	0	0	0	0	0
	Returned	0	0	0	0	0	0	0
	Overturned	0	0	0	0	0	0	0
	Pending	0	0	2	2	2	2	2
<b>1.12 Regulatory Activity: HRTTO Matters</b>								
	In progress		1	1	1	1	1	1
	Decided							
	In favour of applicant							0
	In favour of College							0



The College of Naturopaths of Ontario

**MEMORANDUM**


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**DATE:** May 24, 2023

**TO:** Council members  
College of Naturopaths of Ontario

**FROM:** Agnes Kupny  
Director of Operations

**RE:** Variance Report – Q4 Unaudited Financial Statements

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I am pleased to provide this Variance Report and the Unaudited Financial Statements of the College of Naturopaths of Ontario as of March 31, 2023, which represents the fourth and final quarter of our fiscal year 2022-2023.

**Statement of Financial Position**

The Statement of Financial Position provides a snapshot of the financial standing of the organization at the point in time for which it is dated, in this case, as of March 31, 2023.

The College has ended this fiscal year with a small surplus as noted in Current Earnings in the amount of \$147,656.33. Further down in the report there is a small adjustment that is made to include capital expenditures. Please note that this report continues to include COVID-19 pandemic impacts in reference to the number of candidates the College is able to host for exams.

At the end of the quarter the College's Operating bank account has a higher-than-normal balance in the amount of \$1,553,799.93 These funds represent Registration fees that were made towards the end of the College's deadline of March 31, 2023.

The College's accounts receivable has increased by close to \$200,000 from the previous year which represents an increase in the level of participation in the payment plan program. In our new fiscal year, we have a total enrollment of 672 Registrants as opposed to 550-560 enrolments in the previous two years.

Pre-paid expenses in the amount of \$131,369.04 is made up of last installment for Satori Consulting, last months' rent at the old office which will be reimbursed to the College at the end of the fiscal year of the landlord, last month's rent for the new office, CANRA membership and several annual subscriptions.

The College's Accounts Payable in the amount of \$321,676.06 of which over 50% of this balance in the amount of \$181,846.12 is for HST. Other costs include Yardstick (our exam platform), legal costs and credit card processing fees.

The allowance for doubtful accounts represents fees that are owed to the College that we do not anticipate collecting, this accounts for 3% against receivables. The allowance is made primarily for registration fees and Discipline Committee Ordered Costs.

Other Liabilities have returned to be within normal business practice limits as the College returns to a normal fiscal year cycle.

### Statement of Operations

The Statement of Operations, as well as an analysis of the Statement of Operations is attached following the Statement of Financial position. For the analysis, the coloured legend is as follows:

- **Blue**- notes actual budget and actual expenditures for Q4 only.
- **Green**- is a calculation of how much was spent in Q4 versus the Q4 budget.
- **Yellow**- historical data from the previous year to illustrate actual expenditures versus the budget.
- **Purple**- captures the budget and actual expenditures compounding from quarter to quarter. In this report the table includes data for Q1, Q2, Q3 and Q4 combined.
- **Pink**- illustrates the actual annual budget and the percentage of the budget received or spent to date.

### Revenue

Total Year-to-Date actual revenue was \$3,612,692. This compares to the Year-to-Date budget of \$3,548,678 resulting in a small favorable balance of \$64,014, which accounts for a 2% variance.

This quarter all revenue line items exceeded budgeted expectations with the exception of Inspections and Ordered Costs Recovered.

Line Item	Current 2022-2023 Fiscal Year				Prior Fiscal Year January–March 2022		
	Year to Date Budget	Year to Date Revenue	Variance in \$	% within the Budget	Q4- Actual Revenue	Q4- Variance in \$	Q4- Variance in %
Incorporation Fees	\$26,550	\$30,900	\$4,350	116% Over budget	\$7,002	\$4,352	264% Over budget
Ordered Costs Recovered	\$143,000	\$23,200	(\$119,800)	84% Under budget	\$1,750	(\$2,250)	56% Under budget
Inspections	\$170,000	\$121,400	(\$48,600)	29% Under budget	\$21,100	(\$21,400)	50% Under budget
Interest	\$2,400	\$6,385	\$3,958	265% Over budget	\$177	(\$823)	82% Under budget
Investment Income	\$7,200	\$33,623	\$26,423	467% Over budget	(\$2,644)	(\$4,144)	-176% Over budget
Miscellaneous Income	\$3,700	\$1,363	(\$2,337)	63% Under budget	\$0	\$1,567	*this line item was

							not budgeted
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**Incorporation Fees (116% of YTD Budget)-** This line item exceeded budgeted expectations with 112 professional corporation applications being processed vs. a budgeted 97 applications.

**Ordered Costs Recovered (16% of YTD Budget)-** Partial ordered costs were collected from four Registrants. All four Registrants are on a payment plan and College is anticipated to recover these costs by the end of next fiscal year. There are three larger cases that total \$98,883.04, in which the College is seeking supplementary legal proceedings on two of the cases to collect these monies totaling \$90,883.04.

**Inspections (71% of YTD Budget)-** A total of eight premises were in receipt of a five-year inspection and three new premises were registered. The inspections program completed a total of 63 inspections (combination of new premises and five-year inspections) this year vs. 80 premises for which it had budgeted.

**Interest (265% of YTB Budget)-** The increased interest rate of 0.02% in Q2 was maintained throughout Q3 and Q4.

**Investment Income- (467% of YTD Budget)-** The College's investment portfolio of a GIC and Mutual Fund doubled in interest in Q3 and continued into Q4. These investments are now performing at a similar rate of return in our 2020-21 fiscal year pre COVID-19.

**Miscellaneous Income- (37% of YTD Budget)-** A small budget allocation was made in Q1 for potential CEWS subsidy. However, the Government did not extend this program. The revenue in this line item is primarily fees collected for furniture pieces the College sold that could not be used in the new office space.

#### Expenses

Total Year-to-Date expenses were \$3,465,035 versus the Year-to-Date budget of \$3,879,029. The favorable variance of \$413,994 is an overall cost savings of 11% against the budget. The primary items that exceeded budget allocations were salaries and benefits by 1% and insurance by 21%. All other line items contributed to lowered expenses are as follows:

Line Item	Current 2022-2023 Fiscal Year				Prior 2022-2022 Fiscal Year		
	Year to Date Budget	Year to Date Expense	Variance in \$	% within the Budget	Q4- Actual Expense	Q4- Variance in \$	Q4- Variance in %
Salaries and Benefits	\$1,837,942	\$1,865,215	(\$27,273)	101% Over budget	\$487,871	(\$89,767)	123% Over budget
Rent and Utilities	\$337,215	\$279,370	\$57,845	17% Under budget	\$75,291	\$222	0.3% Under budget
Office and General	\$182,768	\$138,010	\$44,758	24% Under budget	\$52,241	\$11,110	18% Under budget

Consulting Fees-General	\$102,400	468,581	\$33,819	33% Under budget	\$11,863	(\$9,463)	494% Over budget
Consulting Fees-Complaints	\$132,000	\$105,719	\$26,281	20% Under budget	\$26,306	\$3,944	13% Under budget
Consulting Fees-Assessors	\$63,600	\$46,789	\$16,811	26% Under budget	\$6,760	\$8,240	55% Under budget
Legal Fees-General	\$45,432	\$15,798	\$29,634	65% Under budget	\$3,528	\$8,632	71% Under budget
Legal Fees-Complaints	\$100,725	\$73,955	\$26,770	27% Under budget	\$11,999	\$1,929	14% Under budget
Legal Fees-Discipline	\$259,000	\$190,650	\$68,300	26% Under budget	\$42,496	(\$28,496)	304% Over budget
Council Fees and Expenses	\$244,620	\$164,251	\$80,369	33% Under budget	\$57,274	(\$24,557)	175% Over budget
Insurance	\$27,000	\$32,682	(\$5,682)	121% Over budget	\$3,640	(\$3,640)	Over budget 100%
Public Education	\$111,584	\$84,611	\$26,973	24% Under budget	\$60,220	(\$11,057)	122% Over budget
Education and Training	\$17,055	\$7,775	\$9,280	54% Under budget	\$190	\$310	62% Under budget

**Salaries and Benefits (101% of YTD Budget)-** At the end of the fiscal year a couple of year-end adjustments were made to account for a small overage in salaries and benefits. One additional week of wages from March 27-31, 2023, and staff vacation entitlements were accrued for a total of \$84,000.

**Rent and Utilities (83% of YTD Budget)-** The budgeted allocation for rent for 2022-2023 was overstated by one month's rent. Due to timing of budget presentation to Council, a new office location had not yet been secured and existing rental rate was applied for the full twelve months. There was also a one-time credit of \$13,315 for utilities due to lower occupancy in the building and less usage of resources.

**Office and General (76% of YTD Budget)-** Costs for travel, meals and accommodations were under-utilized as most meetings attended remained virtual. General office supplies and photocopies were also decreased with the support of a hybrid working model.

**Consulting Fees General (67% of YTD Budget)-** You will note that from Q3 to the end of Q4 this line has increased by over 50%. This is in alignment with the completion of some of our larger initiatives including migrating data from a physical server to the cloud, office move and French translation work on our registers.



**Consulting Fees Complaints (80% of YTD Budget)**- One new complaint and two CEO Investigations were opened this quarter. There were also five complaints closed and one CEO Investigation.

**Consulting Fees Assessors (74% of YTD Budget)**- A total of 18 inspections were completed this quarter. On average 14-18 inspections were completed each quarter from a budgeted 25 inspections.

**Legal Fees General (35% of YTD Budget)** – This year 50% of what was forecasted was not needed for general counsel consultations in Operations or Registration. Other program areas that incurred little to no fees include Patient Relations, Quality Assurance, Inspections, Standards and Drug, Substances, and Lab Program.

**Legal Fees Complaints (73% of YTD Budget)** – One new complaint and two CEO Investigations were opened this quarter. There were also five complaints closed and one CEO Investigation.

**Legal Fees Discipline/Hearings (74% of YTD Budget)**- This quarter there was the continuation of Q3 into Q4 for one contested hearing.

**Council Fees (67% of YTD Budget)**- There were a few committees in which no activity took place including Audit Committee, Patient Relations, Scheduled Substances Review Committee and Risk Management Committee. The Council's cost savings were due to the one budgeted two-day meeting in July being conducted remotely and training for Equity, Diversity and Inclusion and Unconscious Bias training being deferred to next fiscal year. Minimal training costs were also incurred by ICRC, Discipline, and Governance Committee. Cost savings are typically anticipated in this program area as we budget for full composition in attendance for every meeting and every meeting being held.

**Insurance (Overbudget by 121% of YTD Budget)** – The annual renewal of insurance for the College was increased by the vendor by approximately 15% which is greater than previous increases year over year when budgeted.

**Public Education (76% of YTD Budget)**- This program area had cost savings due to the Communications department using images from its existing library and decreased support needed throughout the year for WordPress, the platform the College uses for its website.

**Education and Training (46% YTD Budget)**- There was some staff training expenditures in Q4 under Operations. No other program area held any training initiatives this quarter. Cost savings this year were primarily due to larger training sessions held for staff and volunteers bi-annually for Equity, Diversity and Inclusion and Unconscious Bias training.

### **Capital Expenditures**

In Q4 capital costs were incurred for IT for a new laptop to align with the new HR plan along with a new IT tower that was installed in our new office. With the transition of College operations to a hybrid model, furniture pieces that were purchased for the new office included accessory pieces for the meeting room, reception, and lunchroom. Staff lockers were also purchased to accommodate staff personal belongings as workstations have been set up as hoteling touchdown stations.

Overall, 20% of savings were incurred in capital expenditures against budget as the College was able to use the majority of its existing furniture pieces in the new office.

#### Overall Standing

Based on the analysis provided, as highlighted in pink, the overall revenues at the end of the fiscal year exceeded budgeted expectations overall by 2% of the annual budget, with the greatest shortfall in Ordered Costs Recovered, Inspection Fees and Miscellaneous Income. This is driven by when Decision and Reasons are concluded, the payment plan established and the re-payment of ordered costs actually recovered by the College.

Expenses against the year-end budget had an overall savings in expenses of 11% with greatest savings in Legal Fees General, Education and Training, Consulting Fees General and Council Fees and Expenses.

At the end of the fiscal year the College's current earnings show a surplus of \$147,656.33. With capital and operating expenses separate the College is ending the year with an actual surplus of \$114,430.42:

Current Earnings (Operating)	\$147,656.33
Capital Expenses	(\$33,225.91)
Actual Surplus	\$114,430.42

As per the College's Executive Limitations Policy EL17.02 Reserve Funds, with the College ending the year in a surplus, the established reserve funds will be topped up at the conclusion of our audit with the following guidelines:

- a) Patient Relations Fund – Up to the amount used in that fiscal year.
- b) Investigations and Hearings Fund – 5% of surplus.
- c) Business Continuity Fund - 10% of surplus.
- d) Succession Planning Reserve Fund – 1% of surplus.

This report is a highlight of the overall financial picture of the College for the relevant reporting period. If you have any questions or would like to discuss any aspects of this report, I am happy to do so.

Respectfully submitted.



The College of Naturopaths of Ontario

**STATEMENT OF FINANCIAL POSITION**  
**As of March 31, 2023 (Q4)**  
**100% of Fiscal Year**

**ASSETS**

Chequing / Savings

Bank - Operating Funds	\$ 1,553,799.93
Bank - Savings	\$ 199,906.88
Petty Cash	\$ 500.00
Refund Clearing	\$ (1,454.54)
<b>Total Chequing / Savings</b>	<b>\$ 1,752,752.27</b>

Accounts Receivable

Accounts Receivable	\$ 1,355,588.51
Allowance for Doubtful Accounts	\$ (32,374.50)
Ordered DC Costs	\$ 5,400.00
<b>Total Accounts Receivable</b>	<b>\$ 1,328,614.01</b>

Other Current Assets

Prepaid Expenses	\$ 131,369.04
Investment in Mutual funds	\$ 1,599,128.44
Accrued Interest	\$ 447.50
Investment in GIC	\$ 516,116.61
<b>Total Other Current Assets</b>	<b>\$ 2,247,061.59</b>

Fixed Assets

Computer Equipment	\$ 89,110.34
Furniture and Fixtures	\$ 150,050.08
Accumulated Amortn - Computers	\$ (125,172.89)
Accumulated Amortn - Furniture	\$ (69,265.18)
<b>Total Fixed Assets</b>	<b>\$ 44,722.35</b>

**TOTAL ASSETS**

**\$ 5,373,150.22**

**LIABILITIES AND EQUITY**

Accounts Payable

Accounts Payable	\$ 321,676.06
Credit cards	\$ (1,197.93)
<b>Total Account Payable</b>	<b>\$ 320,478.13</b>

Other Current Liabilities

Accrued Liabilities	\$ 103,148.25
Accrued Liabilities-Discipline	\$ 3,400.00
Deferred Income	\$ 3,054,783.00

HST Payable	\$ (152,103.25)	
<i>Total Current Liabilities</i>		<u>\$ 3,009,228.00</u>

Equity		
Retained Earnings	\$ (332,720.37)	
Patient Relations Fund	\$ 90,385.13	
Business Continuity Fund	\$ 1,083,877.00	
Investigations and Hearing Fund	\$ 1,004,246.00	
Succession Planning Fund	\$ 50,000.00	
Current Earnings	\$ 147,656.33	
<i>Total Equity</i>		<u>\$ 2,043,444.09</u>

<b>TOTAL LIABILITIES AND EQUITY</b>		<u><b>\$ 5,373,150.22</b></u>
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The College of Naturopaths of Ontario

Analysis of Statement of Operations for Q4 commencing January 01 to March 31, 2023

	Q4						12 MONTH ENDING MARCH 31, 2023				ANNUAL BUDGET	% OF BUDGET REC'D AND/OR SPENT
	Jan-Mar'23 Budget	Jan-Mar'23 Actual	BUDGET FAV (UNFAV) VARIANCE		Jan-Mar'22 Actual	Jan-Mar'22 FAV (UNFAV) VARIANCE	YTD Budget	YTD Actual	BUDGET FAV (UNFAV) VARIANCE			
	\$'s	\$'s	\$	%	\$'s	\$	\$'s	\$'s	\$	%		
Revenue												
Registration and Member Renewals	10,910	236,640	225,730	2169%	18,467	2,945	2,908,828	3,128,523	219,695	108%	2,908,828	108%
Examination Fees	59,800	20,700	(39,100)	35%	52,500	(7,300)	287,000	267,325	(19,675)	93%	287,000	93%
Deferred Capital Funding	-	-	-	0%	-	-	-	-	-	0%	-	0%
Incorporation Fees	4,650	8,700	4,050	187%	7,002	4,352	26,550	30,900	4,350	116%	26,550	116%
Ordered Costs Recovered	45,000	1,700	(43,300)	4%	1,750	(2,250)	143,000	23,200	(119,800)	16%	143,000	16%
Inspection Fees	42,500	23,600	(18,900)	56%	21,100	(21,400)	170,000	121,400	(48,600)	71%	170,000	71%
Interest	600	1,570	970	262%	177	(823)	2,400	6,358	3,958	265%	2,400	265%
Investment Income	900	14,860	13,960	1651%	(2,644)	(4,144)	7,200	33,623	26,423	467%	7,200	467%
Miscellaneous Income (CEWS Subsidy)	-	1,188	1,188	0%	1,567	1,567	3,700	1,363	(2,337)	37%	3,700	37%
Total Revenue	164,360	308,958	144,598	188%	99,919	(27,053)	3,548,678	3,612,692	64,014	102%	3,548,678	102%
Expenses												
Salaries and Benefits	452,322	515,612	(63,290)	-14%	487,871	(89,767)	1,837,942	1,865,215	(27,273)	-1%	1,837,942	101%
Rent and Utilities	71,744	65,841	5,903	8%	75,291	222	337,215	279,370	57,845	17%	337,215	83%
Office and General	53,169	59,854	(6,685)	-13%	52,241	11,110	182,768	138,010	44,758	24%	182,768	76%
Consulting Fees-General	37,400	61,190	(23,790)	-64%	11,863	(9,463)	102,400	68,581	33,819	33%	102,400	67%
Consulting Fees-Complaints and Inquires	32,250	47,945	(15,695)	-49%	26,306	3,944	132,000	105,719	26,281	20%	132,000	80%
Consulting Fees-Assessors/Inspectors	17,400	10,689	6,711	39%	6,760	8,240	63,600	46,789	16,811	26%	63,600	74%
Exam Fees and Expenses	58,747	61,262	(2,515)	-4%	36,594	17,770	282,867	262,560	20,307	7%	282,867	93%
Legal Fees-General	11,358	3,373	7,985	70%	3,528	8,632	45,432	15,798	29,634	65%	45,432	35%
Legal Fees-Complaints	16,700	23,934	(7,234)	-43%	11,999	1,929	100,725	73,955	26,770	27%	100,725	73%
Legal Fees-Discipline	75,000	27,928	47,072	63%	42,496	(28,496)	259,000	190,650	68,350	26%	259,000	74%
Council Fees and Expenses	61,377	15,176	46,201	75%	57,274	(24,557)	244,620	164,251	80,369	33%	244,620	67%
Hearings (Discipline, Fitness to Practice)	10,950	6,075	4,875	45%	1,808	1,968	40,950	40,315	635	2%	40,950	98%
Amortization/Depreciation	24,709	21,425	3,284	0%	-	-	24,709	21,425	-	0%	24,709	87%
Insurance	-	-	-	0%	3,640	(3,640)	27,000	32,682	(5,682)	-21%	27,000	121%
Equipment Maintenance	12,702	11,671	1,031	8%	12,597	(552)	51,008	49,793	1,215	2%	51,008	98%
Audit Fees	-	16,400	(16,400)	0%	-	-	16,500	16,000	500	3%	16,500	97%
Publio Education	58,213	14,250	43,963	76%	60,220	(11,057)	111,584	84,611	26,973	24%	111,584	76%
Education and Training	500	3,453	(2,953)	-591%	190	310	17,055	7,775	9,280	54%	17,055	46%
Printing and Postage	248	751	(503)	-203%	14	479	1,655	1,535	120	7%	1,655	93%
Total Expenses	994,944	966,831	28,113	3%	890,692	(164,433)	3,879,029	3,465,035	413,994	11%	3,879,029	89%
Total Revenue over Expenses	(830,584)	(657,873)	116,485	-14%	(790,773)	137,380	(330,351)	147,657	(349,980)	-14%	(330,351)	



## The College of Naturopaths of Ontario

## Statement of Operations

	2022-2023			
	Budget	Y-T-D Actual	YTD as % of Budget	Apr-Mar'23 Budget
<b>REVENUES</b>				
Registration and member renewal fees	\$ 2,908,828	\$ 3,128,523	108%	\$ 2,908,828
Examination fees	\$ 287,000	\$ 267,325	93%	\$ 287,000
Deffered capital funding	\$ -	\$ -	0%	\$ -
Incorporation fees	\$ 26,550	\$ 30,900	116%	\$ 26,550
Ordered costs recovered	\$ 143,000	\$ 23,200	16%	\$ 143,000
Inspection fees	\$ 170,000	\$ 121,400	71%	\$ 170,000
Interest	\$ 2,400	\$ 6,358	265%	\$ 2,400
Investment Income	\$ 7,200	\$ 33,623	467%	\$ 7,200
Miscellaneous	\$ 3,700	\$ 1,363	37%	\$ 3,700
<b>TOTAL REVENUES</b>	\$ 3,548,678	\$ 3,612,692		\$ 3,548,678
<b>EXPENSES</b>				
Salaries and benefits	\$ 1,837,942	\$ 1,865,215	101%	\$ 1,837,942
Rent and utilities	\$ 337,215	\$ 279,370	83%	\$ 337,215
Office and general	\$ 182,768	\$ 138,010	76%	\$ 182,768
Consulting fees				
Consultants - general	\$ 102,400	\$ 68,581	67%	\$ 102,400
Consultants - complaints and inquiries	\$ 132,000	\$ 105,719	80%	\$ 132,000
Consultants - assessors/inspectors	\$ 63,600	\$ 46,789	74%	\$ 63,600
Exam fees and expenses	\$ 282,867	\$ 262,560	93%	\$ 282,867
Legal fees				
Legal fees - general	\$ 45,432	\$ 15,798	35%	\$ 45,432
Legal fees - complaints	\$ 100,725	\$ 73,955	73%	\$ 100,725
Legal fees - discipline	\$ 259,000	\$ 190,650	74%	\$ 259,000
Council fees and expenses	\$ 244,620	\$ 164,251	67%	\$ 244,620
Hearings (Discipline, Fitness to Practise)	\$ 40,950	\$ 40,315	98%	\$ 40,950
Amortization/Depreciation	\$ 24,709	\$ 21,425	87%	\$ 24,709
Insurance	\$ 27,000	\$ 32,682	121%	\$ 27,000
Equipment maintenance	\$ 51,008	\$ 49,793	98%	\$ 51,008
Audit fees	\$ 16,500	\$ 16,000	97%	\$ 16,500
Public education	\$ 111,584	\$ 84,611	76%	\$ 111,584
Education and training	\$ 17,055	\$ 7,775	46%	\$ 17,055
Postage & Courier	\$ 1,655	\$ 1,535	93%	\$ 1,655
<b>TOTAL EXPENSES</b>	\$ 3,879,029	\$ 3,465,035		\$ 3,879,029
<b>EXCESS OF REVENUES OVER EXPENSES</b>	\$ (330,351)	\$ 147,657		\$ (330,351)



The College of Naturopaths of Ontario

**2022-23 Capital Statement**

Line Item	Total Budget (April 2022-March 2023)	April	May	June	July	August	September	October	November	December	January	February	March	YTD Actual	Balance
Computer Equipment	\$13,100.00		\$5,495.74	\$2,578.04								\$2,089.95	\$2,400.77	\$12,564.50	\$535.50
Furniture & Fixtures	\$30,000.00											\$10,015.09	\$10,646.32	\$20,661.41	\$9,338.59
Total	\$43,100.00													\$33,225.91	\$9,874.09



The College of Naturopaths of Ontario

# MEMORANDUM

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**DATE:** May 31, 2023

**TO:** Council members

**FROM:** Dr. Brenda Lessard-Rhead, ND (Inactive)  
Chair, Governance Policy Review Committee

**RE:** Review of the Committee Terms of Reference

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The Governance Policy Review Committee (GPRC) met on May 2, 2023, to review the Committee Terms of Reference suggestions that had been submitted as part of the regular policy review, as well as to consider on-going changes to other policies.

## 1. Committee Terms of Reference.

In keeping with the revised Council Annual Cycle, the May meeting of the Council includes a detailed review of the Committee Terms of Reference.

- CC01.05 - Audit Committee
- CC02.07 - Scheduled Substances Review Committee
- CC03.07 - Examination Appeals Committee
- CC04.05 - Governance Committee
- CC05.05 - Inspection Committee
- CC06.04 - Governance Policy Review Committee
- CC07.02 - Standards Committee
- CC08.02 - Equity, Diversity and Inclusion Committee
- CC09.02 - Risk Committee
- SC01.06 - Discipline Committee
- SC02.03 - Executive Committee
- SC03.06 - Fitness to Practise Committee
- SC04.07 - Inquiries, Complaints and Reports Committee
- SC05.06 - Quality Assurance Committee
- SC06.07 - Patient Relations Committee
- SC07.07 - Registration Committee

The staff circulated information to Council members in advance of the Committee meeting. There was no substantial feedback received by Council members with respect to any of the Committee Terms of Reference; in addition, the Committee has reviewed the policies in detail and has several recommendations for the consideration of Council.

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CC04 – Governance Committee

The Committee reviewed the Terms of Reference and after a discussion the Committee decided to make two grammatical changes by removing the word 'shall' within bullet point #4 in the Responsibilities section.

**Recommendation** – That the Terms of Reference have the grammatical change completed.

CC05 – Inspection Committee

The Committee reviewed the Terms of Reference and after a discussion the Committee decided to make a grammatical change by including the words '...ensure the training of...' within bullet point #2 in the Responsibilities section.

**Recommendation** – That the Terms of Reference have the grammatical changes completed.

CC06 – Governance Policy Review Committee

The Committee reviewed the Terms of Reference and after a discussion the Committee decided to make a grammatical change by removing reference to the CEO being an ex officio member of the Committee.

**Recommendation** – That the Terms of Reference have the grammatical change completed.

CC07 – Scheduled Substance Review Committee (SSRC)

The Committee reviewed the Terms of Reference and a memorandum submitted by Mr. Jeremy Quesnelle, Deputy CEO, and held a discussion. Afterwards the Committee decided to recommend to the Council to have the Terms of Reference removed from GP06.

**Recommendation** – That the Terms of Reference be removed from GP06.

CC08 – Equity, Diversity and Inclusion Committee

The Committee reviewed the Terms of Reference and after a discussion the Committee decided to make grammatical changes by removing the fourth and fifth bullet point's opening word 'review' and include '...are reviewed...' within the Responsibilities section.

**Recommendation** – That the Terms of Reference have the grammatical changes completed.

SC05 – Quality Assurance Committee

The Committee reviewed the Terms of Reference and after a discussion the Committee decided to make a grammatical change by including the words '...ensure the training of...' within bullet point #2 in the Responsibilities section.

**Recommendation** – That the Terms of Reference have the grammatical change completed.

SC01 - Discipline Committee and SC03 - Fitness to Practise

The Committee reviewed the Terms of References and after a discussion the Committee decided to remove the wording 'of the Council' and to just state Public Members within the Panel Quorum section of each of the corresponding Terms of Reference.

**Recommendation** – That the Terms of Reference have the grammatical changes completed.

All Terms of Reference

Capitalize each beginning word of the bullet points within the Responsibilities section to remain consistent, as well as align the last bullet point with the rest.

**2. Review of Governance Process Policies 18, 19 & 20**

GP18.05 – Per Diem & Expenses

The Committee reviewed this policy and made the following recommendations;

- Remove the reference to elected and non-elected volunteers and replace it with Registrant Volunteers within the opening paragraph,
- Include definitions for Public member, Public Representative and Registrant Volunteers with the definition section,
- Amend the definition of 'Half Day' to include the wording “..up to and including three hours..”,
- Remove the last two sentences within item #6 starting at “This provision...” and onward,
- Include reference to regulatory reports within item #7,
- Switch the CPP and EI references around within item #11 to correspond correctly to the payroll processes,
- Minor grammatical change within item #12 to change 'are' to 'and' within the last line, and
- Remove the word 'original' in the first sentence and remove the sentence 'Photocopies, facsimiles or credit card slips are not acceptable.' in item #17 and remove the wording 'initial the' within the third sentence.

**Recommendation** – That the policy being referenced have the amendments completed as outlined.

GP19.04 - CEO Performance Review

The Committee reviewed this policy and made the following amendments;

- Change the timeline within item #5 to the March Council meeting instead of January, and
- Reference only the Consumer Price Index (CPI) increase and remove the other two methods when considering the CEO's wage increase.

**Recommendation** – That the policy being referenced have the amendments completed as presented.

GP20.00 - Commitment to Strategic Planning

The Committee reviewed this policy and required additional time to review feedback and suggestions of amendments.

**Recommendation** – That the policy being referenced be deferred to the July meeting for acceptance of any changes should they be presented.

Respectfully submitted,

Dr. Brenda Lessard-Rhead, ND (Inactive)  
Chair, Governance Policy Review Committee  
May 2023

Section	Committee	Page
Governance Process	Governance Committee (CC04.056)	1
		Create Date November 5, 2013

Authority and Accountability	The Governance Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 of the by-laws and GP06 - Committee Principles of the Council governing policies. The Committee is accountable directly to the Council of the College.
Limitations	The Governance Committee shall only exercise the authority and fulfill the duties and responsibilities authorized in the by-laws and by these Terms of Reference.
Responsibilities	<p>The Governance Committee shall:</p> <ul style="list-style-type: none"> <li>• Review and make a final ruling on any disputes regarding a Registrant's eligibility to vote in an election (s.10.07 of the bylaws);</li> <li>• Review and make a determination on the acceptability of the biography and personal statement submitted by a candidate for election (s. 10.13 of the bylaws);</li> <li>• Upon the request of the CEO, assist the CEO in the supervision and administration of elections of candidates for the Council (s. 10.16 of the by-laws);</li> <li>• Upon a referral from the Council, <del>shall</del> hold an inquiry into the validity of the election of a Council member and <del>shall</del> make a report and recommendations to the Council;</li> <li>• Working with the CEO, develop and maintain a comprehensive volunteer program for Council and Committee members that is acceptable to Council and that: <ul style="list-style-type: none"> <li>○ Provides for a process of recruitment and application for elections and/or appointments to Council and its Committees.</li> <li>○ Provides for a competency-based framework for election and/or appointment to Council and its Committees.</li> <li>○ Provides for an induction program for the assessment of candidates for Council and Council Committees.</li> <li>○ Provides for orientation and training of new Council and Committee members appointed by Council.</li> <li>○ Provides for an evaluation process for Council and Committee members.</li> <li>○ Provides for a feedback process for all volunteers.</li> <li>○ Provides for a volunteer recognition program for serving Council and Committee members; and</li> </ul> </li> <li>• Review the following to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>○ Annually, all relevant program policies and related procedures; and</li> </ul> </li> </ul>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
January 16, 2014	<del>July 27, 2022</del> May 31, 2023	Council

Section	Committee	Page
Governance Process	Governance Committee (CC04.056)	2
		Create Date November 5, 2013

	<ul style="list-style-type: none"> <li>○ Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul>
Appointment and composition	<p>The Governance Committee shall be appointed by the Council and shall be comprised of no fewer than three but as many individuals as the Council may deem appropriate, such that the Committee members include:</p> <ul style="list-style-type: none"> <li>• One or more Registrants who are not seeking election to the Council in the year on which they sit on the Committee.</li> <li>• Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council.</p>
Panels	<p>The Governance Committee may meet in panels. Any panel of the Committee shall be appointed by the Committee Chair in accordance with any requirements set out in the Code. When appointing a panel, the Committee Chair shall designate one panel member as the Chair of the Panel.</p>
Term of Office	<p>The Governance Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.</p> <p>The term of office of any panel appointed by the Committee Chair shall be until the matter referred to it has been disposed of.</p>
Meetings	<p>The Governance Committee shall meet on a date and at a time set by the Committee Chair at least ten days in advance of the meeting date unless a majority of Committee members agree to a shorter period.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Governance Committee shall be three members of the Committee, at least one of which shall be a Public member or a Public Representative as defined in the by-laws.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
January 16, 2014	July 27, 2022 May 31, 2023	Council

## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Governance Committee (CC04.056)	3
		Create Date November 5, 2013

Quorum for panels	Quorum for a panel of the Governance Committee shall be in accordance with any requirements set out in the Code.
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
January 16, 2014	<del>July 27, 2022</del> May 31, 2023	Council

Section	Committee	Page
Governance Process	Inspection Committee (CC05.056)	1
		Create Date January 15, 2016

Authority and Accountability	The Inspection Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 of the by-laws and GP06 - Committee Principles of the Council governing policies. The Committee is accountable directly to the Council of the College.
Limitations	The Inspection Committee shall only exercise the authority and fulfill the duties and responsibilities authorized in the by-laws and by these Terms of Reference.
Responsibilities	<p>The Inspection Committee shall:</p> <ul style="list-style-type: none"> <li>• Advise on and recommend to the Council the requirements for, and policies and procedures relating to, the Inspection Program of the College;</li> <li>• Appoint and ensure the training of appropriate individuals as inspectors;</li> <li>• Ensure that adequate inspections are undertaken and completed in a timely way using appropriate tools and mechanisms;</li> <li>• Determine, after reviewing inspection reports and other material referred to in Part IV of the General Regulation: <ul style="list-style-type: none"> <li>○ Whether the premises pass, pass with conditions, or fail;</li> <li>○ Specify the conditions that shall be attached to each “pass with conditions”;</li> <li>○ Deliver written reports as required;</li> <li>○ Direct the Registrar to refer a Registrant to the Quality Assurance Committee, if the result of an inspection report made by the Committee finds that a member’s knowledge, skill or judgment is unsatisfactory; and</li> <li>○ Direct the Registrar to refer a Registrant to the Inquiries, Complaints and Reports Committee, if the result of an inspection report made by the College finds that a member may have committed an act of professional misconduct or may be incompetent or incapacitated; and</li> </ul> </li> <li>• Review the following to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>○ Annually, all relevant program policies and related procedures; and</li> <li>○ Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul> </li> </ul>
Appointment and composition	<p>The Inspection Committee shall be appointed by the Council and shall be comprised of no fewer than three but as many individuals as the Council may deem appropriate, such that the Committee members include:</p> <ul style="list-style-type: none"> <li>• One or more Council members.</li> </ul>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
January 27, 2016	July 27, 2022 May 31, 2023	Council

## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Inspection Committee (CC05.056)	2
		Create Date January 15, 2016

	<ul style="list-style-type: none"> <li>One or more Registrants who are not Council Members and who have met the Standard of Practice on Prescribing and the Standard of Practice on Intravenous Infusion Therapy established in the General Regulation.</li> <li>Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council.</p>
Term of Office	The Inspection Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.
Meetings	<p>The Inspection Committee shall meet on a date and at a time set by the Committee Chair at least ten days in advance of the meeting date unless a majority of Committee members agree to a shorter period.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Inspection Committee shall be three members of the Committee, at least one of which shall be a Public member or a Public Representative as defined in the by-laws.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
January 27, 2016	July 27, 2022-May 31, 2023	Council

## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Governance Policy Review Committee (CC06.045)	1
		Create Date August 18, 2020

Authority and Accountability	The Governance Policy Review Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 of the by-laws and GP06 - Committee Principles of the Council governing policies. The Committee is accountable directly to the Council of the College.
Limitations	The Governance Policy Review Committee shall only exercise the authority and fulfill the duties and responsibilities authorized in the by-laws and by these Terms of Reference.
Responsibilities	<p>The Governance Policy Review Committee shall be responsible for the development, maintenance, and regular review of the Council's governance policies. As such, it shall:</p> <ul style="list-style-type: none"> <li>• Establish and maintain a process for the identification of non-substantive changes to policies and present proposed amendments to Council based on these.</li> <li>• Solicit comments from Council members in advance of each Council meeting on the set of policies that will be the subject of a detailed review.</li> <li>• Review all comments received and, where appropriate, lead the discussion at the Council meeting relating to all policies including but not necessarily limited to those that are the subject of a detailed review.</li> <li>• Propose any amendments to any of the Council's governance policies and lead the development of any new policies, either as requested by the Council, Council Chair or as recommended by the Chief Executive Officer (CEO).</li> <li>• Review the following to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>○ Annually, all relevant program policies and related procedures; and</li> <li>○ Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul> </li> </ul>
Appointment and composition	<p>The Governance Policy Review Committee shall be appointed by the Council and shall be comprised of no fewer than two but as many individuals as the Council may deem appropriate, such that the Committee members include:</p> <ul style="list-style-type: none"> <li>• Any number of Registrants.</li> <li>• Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
September 9, 2020	July 27, 2022 May 31, 2023	Council



## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Governance Policy Review Committee (CC06.045)	2
		Create Date August 18, 2020

	<del>The CEO shall be an ex-officio, non-voting member of this Committee.</del>
Term of Office	The Governance Policy Review Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.
Meetings	<p>The Governance Policy Review Committee shall meet on a date and at a time set by the Committee Chair at least ten days in advance of the meeting date unless a majority of Committee members agree to a shorter period.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Governance Policy Review Committee shall be two members of the Committee, at least one of which shall be a Public member or a Public Representative as defined in the by-laws.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
September 9, 2020	July 27, 2022 May 31, 2023	Council

Section	Committee	Page
Governance Process	Equity, Diversity and Inclusion Committee (CC08.023)	1
		Create Date May 26, 2021

Authority and Accountability	The Equity, Diversity and Inclusion Committee is a non-statutory committee of the Council of the College of Naturopaths of Ontario and is established pursuant to section 12.02 of the by-laws and GP06 - Committee Principles of the Council governing policies. The Committee is accountable directly to the Council of the College.
Limitations	The Equity, Diversity and Inclusion Committee shall only exercise the authority and fulfill the duties and responsibilities authorized in the by-laws and by these Terms of Reference.
Responsibilities	<p>Working closely with the CEO and senior staff, the Equity, Diversity and Inclusion Committee shall develop and maintain a program of equity, diversity and inclusion that ensures that:</p> <ul style="list-style-type: none"> <li>• Appropriate policies are developed, approved by the Council and implemented that reflect the values of the Council and its commitment to equity, diversity, inclusion and an environment that is free of bias, discrimination and racism;</li> <li>• All recruitment of volunteers to work with the College is one that is based on equity and diversity and includes every individual who is qualified to participate;</li> <li>• Training for all volunteers includes addressing critical issues surrounding equity and inclusion, in particular but not limited to anti-discrimination and anti-bias training;</li> <li>• <del>Reviewing</del> The College's regulatory framework and processes <del>are reviewed</del> to ensure that they are equitable to all individuals within society; and</li> <li>• <del>review</del> The following <del>are reviewed</del> to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>○ Annually, all relevant program policies and related procedures; and</li> <li>○ Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul> </li> </ul>
Appointment and composition	<p>The Equity, Diversity and Inclusion Committee shall be appointed by the Council and shall be comprised of no fewer than three but as many individuals as the Council may deem appropriate, such that the Committee members include:</p> <ul style="list-style-type: none"> <li>• One or more Registrants.</li> <li>• Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
May 26, 2021	<del>July 27, 2022</del> May 31, 2023	Council

Section	Committee	Page
Governance Process	Equity, Diversity and Inclusion Committee (CC08.023)	2
		Create Date May 26, 2021

Term of Office	The Equity, Diversity and Inclusion Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.
Meetings	<p>The Equity, Diversity and Inclusion Committee shall meet on a date and at a time set by the Committee Chair at least ten days in advance of the meeting date unless a majority of Committee members agree to a shorter period.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Equity, Diversity and Inclusion Committee shall be three members of the Committee, at least one of which shall be a Public member or a Public Representative as defined in the by-laws.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
May 26, 2021	July 27, 2022 May 31, 2023	Council

## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Discipline Committee (SC01.067)	1
		Create Date July 30, 2013

Authority and Accountability	The Discipline Committee is a statutory committee of the Council of the College of Naturopaths of Ontario. It is established pursuant to section 10(1) of the Health Professions Procedural Code (the Code), which is Schedule 2 of the <i>Regulated Health Professions Act, 1991</i> (the "RHPA"), section 12.01 of the by-laws and GP06 - Committee Principles of the Council governing policies.
Limitations	The Discipline Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the <i>Regulated Health Professions Act, 1991</i> or under these Terms of Reference,
Responsibilities	<p>The Discipline Committee shall:</p> <ul style="list-style-type: none"> <li>• Develop and maintain policies and procedures governing the disciplinary process of the College of Naturopaths of Ontario;</li> <li>• Annually review the Discipline Rules of Procedure;</li> <li>• Establish panels and conduct hearings into allegations of professional misconduct or incompetence referred to it by the Inquiries, Complaints and Reports Committee; and</li> <li>• Review the following to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>○ Annually, all relevant program policies and related procedures; and</li> <li>○ Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul> </li> </ul>
Appointment and composition	<p>The Discipline Committee shall be appointed by the Council and shall be comprised of no fewer than five but as many individuals as the Council may deem appropriate, such that the Committee members include:</p> <ul style="list-style-type: none"> <li>• At least one Council member who is a Registrant and any number of additional Registrants who are Council members.</li> <li>• Two or more Public Council members.</li> <li>• Two or more Registrants who are not Council members.</li> <li>• Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council.</p>
Panels	The Discipline Committee may meet in panels. Any panel of the Discipline Committee shall be appointed by the Committee Chair in accordance with any requirements set out in the Code. When appointing a panel, the Committee Chair shall designate one panel member as the Chair of the Panel.

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
July 30, 2013	July 27, 2022 May 31, 2023	Council

Section	Committee	Page
Governance Process	Discipline Committee (SC01.067)	2 Create Date July 30, 2013

Term of Office	<p>The Discipline Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.</p> <p>The term of office of any panel appointed by the Committee Chair shall be until the matter referred to it has been disposed of.</p>
Meetings	<p>The Discipline Committee shall meet on a date and at a time set by the Committee Chair at least ten days in advance of the meeting date unless a majority of Committee members agree to a shorter period.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Discipline Committee shall be three members of the Committee, at least one of which shall be a Public member or a Public Representative as defined in the by-laws.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>
Quorum for panels	<p>Quorum for a panel of the Discipline Committee shall be in accordance with section 38(5) of the Code of three members on the panel, at least one of whom shall be a Public member <del>of the Council</del>.</p>
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
July 30, 2013	<del>July 27, 2022</del> May 31, 2023	Council

## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Fitness to Practise Committee (SC03.067)	1
		Create Date July 30, 2013

Authority and Accountability	The Fitness to Practise Committee is a statutory committee of the Council of the College of Naturopaths of Ontario. It is established pursuant to section 10(1) of the Health Professions Procedural Code (the Code), which is Schedule 2 of the <i>Regulated Health Professions Act, 1991</i> (the "RHPA"), section 12.01 of the by-laws and GP06 - Committee Principles of the Council governing policies.
Limitations	The Fitness to Practise Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the <i>Regulated Health Professions Act, 1991</i> or under these Terms of Reference,
Responsibilities	<p>The Fitness to Practise Committee shall:</p> <ul style="list-style-type: none"> <li>• Develop and maintain policies and procedures governing the fitness to practise process of the College of Naturopaths of Ontario;</li> <li>• Annually, in conjunction with the Discipline Committee, review the Discipline Rules of Procedure;</li> <li>• Establish panels and conduct hearings into allegations of incapacity referred to it by the Inquiries, Complaints and Reports Committee as required under Schedule 2 of the Code; and</li> <li>• Review the following to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>○ Annually, all relevant program policies and related procedures; and</li> <li>○ Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul> </li> </ul>
Appointment and composition	<p>The Fitness to Practise Committee shall be appointed by the Council and shall be comprised of no fewer than five but as many individuals as the Council may deem appropriate, such that the Committee members include:</p> <ul style="list-style-type: none"> <li>• At least one Council member who is a Public member and any number of additional Council members.</li> <li>• Two or more Registrants who are not Council members.</li> <li>• Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council.</p>
Panels	The Fitness to Practise Committee may meet in panels. Any panel of the Committee shall be appointed by the Committee Chair in accordance with any requirements set out in the Code. When appointing a panel, the Committee Chair shall designate one panel member as the Chair of the Panel.

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
July 30, 2013	July 27, 2022 May 31, 2023	Council

## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Fitness to Practise Committee (SC03.067)	2
		Create Date July 30, 2013

Term of Office	<p>The Fitness to Practise Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.</p> <p>The term of office of any panel appointed by the Committee Chair shall be until the matter referred to it has been disposed of.</p>
Meetings	<p>The Fitness to Practise Committee will meet at the call of the Chair.</p> <p>Meetings of a Panel shall be at the call of the Chair of the Panel.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Fitness to Practise Committee shall be three members of the Committee, at least one of which shall be a Public member of the Council.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>
Quorum for panels	<p>Quorum of a Panel of the Fitness to Practise Committee shall be three members of the panel, at least one of whom shall be a Public member <del>of the Council.</del></p>
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
July 30, 2013	July 27, 2022 May 31, 2023	Council



## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Quality Assurance Committee (SC05.067)	1
		Create Date July 30, 2013

Authority and Accountability	The Quality Assurance Committee is a statutory committee of the Council of the College of Naturopaths of Ontario. It is established pursuant to section 10(1) of the Health Professions Procedural Code (the Code), which is Schedule 2 of the <i>Regulated Health Professions Act, 1991</i> (the "RHPA"), section 12.01 of the by-laws and GP06 - Committee Principles of the Council governing policies.
Limitations	The Quality Assurance Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the <i>Regulated Health Professions Act, 1991</i> or under these Terms of Reference,
Responsibilities	<p>The Quality Assurance Committee shall:</p> <ul style="list-style-type: none"> <li>Advise on and recommend to the Council policies and procedures governing the Quality Assurance Program of the College, that includes but is not necessarily limited to: <ul style="list-style-type: none"> <li>Continuing education or professional development intended to <ul style="list-style-type: none"> <li>promote continuing competence, and continuing quality improvement among members,</li> <li>address changes in practice environments and</li> <li>incorporate standards of practice, advances in technology, changes made to entry to practice competencies and other relevant issues as determined by the Council.</li> </ul> </li> <li>Self, peer and practice assessments.</li> <li>A mechanism for the College to monitor Registrants' participation in, and compliance with, the Quality Assurance Program (Code, s. 80.1);</li> </ul> </li> <li>Appoint and ensure the training of assessors for the purposes of the peer and practice assessments component of the Quality Assurance Program;</li> <li>Receive and review reports from assessors with respect to Registrants that have been assessed and take such action as is, in the opinion of the Committee, permitted under section 80.2 of the Code to ensure the continued competence of the Registrant; and</li> <li>Review the following to ensure that they are transparent, objective, impartial, fair and free of discrimination and bias and to make any recommendations to the Council for amendments: <ul style="list-style-type: none"> <li>Annually, all relevant program policies and related procedures; and</li> <li>Bi-annually, all relevant regulations made under the <i>Naturopathy Act, 2007</i>.</li> </ul> </li> </ul>
Appointment and composition	The Quality Assurance Committee shall be appointed by the Council and shall be comprised of no fewer than three but as many individuals as the Council may deem appropriate, such that the Committee members include:

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
July 30, 2013	July 27, 2022 May 31, 2023	Council




## COMMITTEE TERMS OF REFERENCE

Section	Committee	Page
Governance Process	Quality Assurance Committee (SC05.067)	2
		Create Date July 30, 2013

	<ul style="list-style-type: none"> <li>At least one Council member who is a Public member and any number of additional Council members.</li> <li>One or more Registrants who are not Council members.</li> <li>Any number of Public Representatives as defined in the by-laws.</li> </ul> <p>A Committee Chair, and where deemed necessary by the Council a Committee Vice Chair, shall also be appointed by the Council and, wherever practical, the Chair shall not be a member of the Executive Committee of the Council.</p>
Term of Office	The Quality Assurance Committee members shall be appointed for approximately one year and may be re-appointed annually by the Council, at its sole discretion, such that no committee member may serve more than nine consecutive years.
Meetings	<p>The Quality Assurance Committee shall meet on a date and at a time set by the Committee Chair at least ten days in advance of the meeting date unless a majority of Committee members agree to a shorter period.</p> <p>In the event that the Committee Chair is unable to preside at a duly called meeting, the Chair may designate an acting Chair from among the Committee members, or where the Chair has not done so, an acting Chair for the meeting shall be selected by and from among the Committee members present.</p>
Quorum	<p>Pursuant to section 12.06 of the by-laws, quorum for meetings of the Quality Assurance Committee shall be three members of the Committee, at least one of which shall be a Public member or a Public Representative as defined in the by-laws.</p> <p>In cases of urgency as determined by the Chair, the Public member/Public Representative requirement for the purposes of quorum may be waived.</p>
Reports	<p>The Committee Chair, on behalf of the Committee, shall provide to the Council an Annual Report on the performance of its responsibilities and outcomes of its activities for the period of April 1<sup>st</sup> of the previous year to March 31<sup>st</sup> of the current year, subject to any requirements of the <i>Regulated Health Professions Act, 1991</i>. The Annual Report shall be submitted to the Chief Executive Officer no later than June 1<sup>st</sup> annually for delivery to the Council.</p> <p>The Committee Chair shall also submit a bi-monthly report to the Council addressing matters of importance to the Committee, including but not necessarily limited to volunteer resources, attendance issues, trends in activities before the committee and volume of work.</p>

DATE APPROVED	DATE OF UPDATE	RESPONSIBLE
July 30, 2013	July 27, 2022 May 31, 2023	Council

 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	<b>COUNCIL POLICIES</b> <b>Item 6.03</b>
	Title	Policy No. <b>GP18.056</b>
	<b>Per Diems &amp; Expenses</b>	Page No. <b>1</b>

*In order to fulfill its regulatory, governance and fiduciary responsibilities, the Council will rely on the support of ~~elected and non-elected~~ Registrant volunteers who will provide their time in preparation and delivery of the duties and responsibilities of the Council and its Committees.*


Definitions	Committee	Means any Committee of the College of Naturopaths of Ontario as established pursuant to GP06, including Standing Committees of Council, Statutory Committees, Ad Hoc Committees and Working Groups.
	Dependent	Means a person who resides with the Council or Committee member on a full-time basis and relies on them for care (e.g., parent or child).
	Per Diem	Means a partial re-imbursement of the professional income that could be earned during the period.
	Meeting / activity	Means a meeting of the Council, a Committee (as defined in GP06), or a panel of a Committee, a hearing or an event at which a Council or Committee member is required by the College to be present.
	Full day	Means a meeting or activity of more than three (3) hours.
	Half day	Means a meeting or activity less than and up to three (3) hours, including 3 hours.
	Normal work day	Means a day comprised of 7 hours for a meeting/activity.
	Public Member	Means a person appointed to the Council by the Lieutenant Government.
	Public Representative	Means a person who is not a Public Member but who is appointed by the Council to a Committee to bring the public perspective to the deliberations.
	Registrant Volunteer	Means a member of the College as defined in subsection 1(1) of the Code and who has been appointed to a Committee by the Council.

Accordingly,

- 1 All elected and non-elected (appointed) Council and Committee members are entitled to a per diem and reimbursement of expenses as outlined in this policy. This policy does not apply to Public Members appointed by the Lieutenant Governor in Council but is consistent with the Remuneration Framework governing such appointees.
- 2 The per diem for meeting attendance shall be paid for Statutory and Standing Committees as defined in GP06 according to the following schedule,

<b>Timeframe</b>	<b>Chair of Council or a Committee or Panel</b>	<b>Vice Chair of Council or a Committee or panel</b>	<b>Council member, Committee members</b>
Full day	\$250	\$175	\$150
½ day	\$125	\$87.50	\$ 75

DATE APPROVED	DATE LAST REVISED
July 30, 2013	May 31, 2023 <del>January 27, 2024</del>

 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	COUNCIL POLICIES <b>Item 6.03</b>
	Title	Policy No. <b>GP18.056</b>
	<b>Per Diems &amp; Expenses</b>	Page No. <b>2</b>

The per diem for meeting attendance for Ad-hoc Committees and Working Groups as defined in GP06 shall be paid at the “Council member, Committee member” rate noted above, regardless of the role of the member.

- 3 The per diem for meeting/activity time paid shall be for the actual time devoted to the meeting or activity, or the time allocated to the meeting, whichever is greater, provided the member arrives on time and does not leave the meeting early. For example a member receives a full day per diem for a meeting greater than 3 hours even if the meeting was scheduled for only 2 hours.
- 4 The per diem for meeting/activity time shall be paid for any meeting/activity that is cancelled with less than 72 hours’ notice at the rate appropriate for the time allocated for the meeting/activity. Where a meeting or activity is cancelled with 72 hour’s notice or more, no per diem shall be due.
- 5 The per diem for preparation time for Statutory Committee meetings (not including ICRC) as defined in GP06, shall be paid for the actual time devoted by the member to prepare for the meeting or activity at the “Council Member, Committee Member” rate in section 2, regardless of the per diem rate payable for attendance, but shall not exceed the scheduled time allocated. For example, a member shall be entitled to up to one day of preparation time for a full day meeting but not more.


The per diem for preparation time for ICRC meetings is based on the number of matters/files considered as follows:

<u><b>Inquiries, Complaints and Reports considered per meeting</b></u>	<u><b>Remuneration Rate</b></u>
25 or less	Up to 1 per diem
26 to 35	Up to 2 per diems
36 to 50	Up to 3 per diems
Greater than 50	Up to 4 per diems

The per diem is not permitted for preparation for meetings of Standing Committees of Council, Ad-hoc Committees or Working Groups as defined in GP06.


- 6 Committees are encouraged to conduct meetings wherever possible and practicable by video or teleconference call. Where the Committee Chair calls for a meeting to be held by conference call, Committee members will receive the appropriate attendance and preparation per diem for the meeting. ~~This provision does not apply to an in-person meeting called by the Chair where the member elects to attend by means of telephone. In necessary circumstances if the member is unable to use the toll-free long-distance number provided by the College for the meeting, remuneration for long distance charges may be claimed.~~

DATE APPROVED	DATE LAST REVISED
July 30, 2013	<del>January 27, 2021</del> May 31, 2023

 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	<b>COUNCIL POLICIES</b> <b>Item 6.03</b>
	Title	Policy No. <b>GP18.056</b>
	<b>Per Diems &amp; Expenses</b>	Page No. <b>3</b>

- 7 Where a Committee is required to draft **regulatory reports** or decisions and reasons, the Committee member involved in the preparation, reviewing and drafting shall be paid up to a maximum of one per diem (\$150) per matter for the actual time devoted to creating and finalizing the document regardless of the per diem rate payable for attendance.
- 8 The per diem for travel time beyond that undertaken as part of a normal day's work may be remunerated at an average hourly rate not to exceed a total payment of 60% of the approved per diem rate. (\$20.69 per hour up to a maximum of \$90). No remuneration for travel time is payable on the day prior or the day after the meeting day.
- For example, where a Council or Committee member is scheduled for a full-day meeting, which takes 7.25 hours, and spends 2 hours travelling to and from the meeting location, the member may be remunerated up to a total of one per diem (\$150) for attendance plus two additional hours of travel time (\$20.69 per hour). However if the member is scheduled for a full-day meeting, which concludes after five hours, and the member spends two hours travelling to and from the meeting location, the member may be remunerated for one per diem, but is not eligible for remuneration of travel time.
- Where travel to and from the College meeting necessitates travel on the day before or after the meeting, related travel expenses such as meals and accommodations may be claimed but the Council or Committee member is not eligible for remuneration of travel time. This does not include Registrants in Districts 1, 7 or 8.
- Given that travel time is based on time rather than distance, it is important that members keep a careful log of their time to ensure accuracy is maintained for claims submitted.
- 9 All claims for per diems shall be recorded on forms established by the CEO and must be submitted within 30 days of the meeting/activity date or the claim will be forfeited.
- 10 Any disputes about a claim for a per diem and any request for special consideration shall be determined by the Governance Committee.
- 11 The per diem shall be paid by direct deposit to the bank account of choice of the member and, in accordance with Canada Revenue Agency (CRA) rules, shall be subject to personal income tax and **Employment Insurance (EI) taxes** ~~Canada Pension Plan~~ deductions but shall not be subject to ~~Canada Pension Plan~~ **Employment Insurance (EI) taxes**. The CEO in accordance with CRA rules shall issue a T4 to all Council and Committee members who receive per diems under this policy.

DATE APPROVED	DATE LAST REVISED
July 30, 2013	<b>May 31, 2023</b> <del>January 27, 2024</del>

 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	<b>COUNCIL POLICIES</b> <b>Item 6.03</b>
	Title	Policy No. <b>GP18.056</b>
	<b>Per Diems &amp; Expenses</b>	Page No. <b>4</b>

12

Council or Committee members may be reimbursed for anticipated meal costs incurred while engaged on College business. Reimbursement for meals when in Canada is an additional allowance and is for restaurant/prepared food only and receipts are not required. Reimbursement for meal costs when travelling outside of Canada are considered expenses ~~are~~ and receipts are required.

Reimbursement for groceries is not permitted.

Criteria for reimbursement are as follows:

- Breakfast expenses may be claimed if the Council or Committee member is required to depart his/her residence two (2) hours prior to the start time of the scheduled meeting.
- Lunch may be claimed only if required to attend the College for a full-day.
- Dinner expenses may be claimed if the formal meeting time extends beyond 4:00 p.m. and when the return trip from a meeting exceeds two (2) hours.

Reimbursements for a meal allowance (in Canada travel) or meal expenses incurred (travel outside of Canada) is subject to the maximum rates set out in the chart below. These rates include taxes and gratuities.

Alcohol cannot be claimed and will not be reimbursed as part of a travel or meal expense.

	<b>In Canada</b>	<b>In USA</b>	<b>International</b>
Breakfast	\$10.00	\$10.00 USD	\$10.00 USD/Local
Lunch	\$12.50	\$12.50 USD	\$12.50 USD/Local
Dinner	\$22.50	\$22.50 USD	\$22.50 USD/Local

13


Air and train travel expenses will be reimbursed at the actual fare costs provided all travel is done at the economy class rate and Council and Committee members take advantage of advance booking rates, excursion fares and other discounts offered. Public transit will be reimbursed at the transit system's posted rates. When a personal vehicle is used, mileage will be reimbursed at \$0.40 per kilometer (\$0.41 for travel from Northern Ontario) subject to the limitation that only one claim may be made per vehicle.

14

Reimbursement for hotel accommodations is available only if:

- a) the Council or Committee member is staying overnight more than 40 km from their residence; or
- b) either the Council or Committee member has meetings/activities on two consecutive days (for the night between the meetings) or, with prior approval of the CEO or his/her delegate, the time necessary to travel to or from the meeting makes it impractical for the Council or Committee member to travel on the day of the meeting.


DATE APPROVED	DATE LAST REVISED
July 30, 2013	<del>May 31, 2023</del> <del>January 27, 2021</del>

 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	<b>COUNCIL POLICIES</b> <b>Item 6.03</b>
	Title  <b>Per Diems &amp; Expenses</b>	Policy No.  GP18.0 <b>56</b>
		Page No.  5

- 15 Notwithstanding section 14 of this policy, hotel accommodations must be at the lowest corporate rate possible and do not include incidental personal charges such as personal telephone calls, movies, laundry, purchases etc.
- 16 A Council or Committee member may be reimbursed for costs incurred for care of dependents to enable attendance at a meeting/activity provided that:
- a written request is provided to, and approved by, the CEO prior to the date of the meeting;
  - travel is occasional or unexpected;
  - the incurred expenses are above and beyond the member's usual costs for dependent care as a result of travel.
- Reimbursements will be for actual costs up to a daily maximum, as follows:
- \$75/day, if a caregiver's receipt is provided;
  - \$35/day, if a written explanation is provided.
- 17 All expense claims must be accompanied with **original** receipts. ~~Photocopies, facsimiles or credit card slips are not acceptable.~~ In the absence of a receipt, the member will ~~initial the~~ recorded ~~the~~ amount on the claim form and shall be reimbursed, unless in the opinion of the Executive Committee upon the advice of the CEO, the absence of a receipt is deemed to be habitual.
- 18 The CEO is authorized by the Council to update, with no further approval required by Council, the monetary amounts set out in paragraphs 2, 12 and 13 of this policy to ensure that it remains aligned to the rates set out in the Health Board's Secretariat document "Summary of Allowable Expenses for Public Appointees to the Health Professions Regulatory Bodies (Colleges) established under the *Regulated Health Professions Act, 1991*". The CEO must circulate an updated copy of the policy to the Council within 30 days of making any changes.

DATE APPROVED	DATE LAST REVISED
July 30, 2013	<del>May 31, 2023</del> <del>January 27, 2021</del>




 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	<b>COUNCIL POLICIES</b> <b>Item 6.03</b>
	Title  <b>CEO Annual Performance &amp; Compensation Review</b>	Policy No.  <b>GP19.043</b>
		Page No.  <b>1</b>

*As part of its responsibilities, the Council undertakes an annual review of the performance of the Chief Executive Officer (CEO). The responsibility to organize, compile and prepare a report of the findings of the review for presentation to and approval of the Council is delegated to the CEO Performance Review Panel (the Review Panel) appointed by the Council.*

Accordingly,

1. Annually, and no later than its November meeting, the Council will appoint a *CEO Performance Review Panel* (the Review Panel) with a minimum of three members and up to a maximum of four members, that is comprised of the:
  - a) Council Chair and Council Vice-Chair; and
  - b) One or two Council members, who have the competencies necessary for the role.
2. The Review Panel will facilitate the completion of the performance review using the following documents, attached to and forming a part of this policy:
  - Form 1 – Annual Objectives and Priority Projects
  - Form 2 – Management and Compliance
  - Form 3 – Determining and Calculating Bonus
  - Form 4 – CEO Development Plan
  - Form 5 – Executive Summary, Acknowledgement and Signatures.
3. The Review Panel shall ensure that new Council members are provided annual training and support to ensure an understanding of this process and that all Council members receive information to reemphasize the importance of the process.
4. The Council will provide the CEO with an incentive bonus annually, in a range of 0% (where an insufficient number of performance measures have been met) up to 10% (where most performance measures have been met) of their base salary. The calculation of the bonus will be based on the formula set out in Form 3 – Determining and Calculating Bonus.
5. Prior to the start of the next Program/Fiscal year, the Review Panel and the CEO shall ensure that draft copies of Form 1, setting out the annual objectives and priority projects and Form 4, setting out the CEO's Professional Development Plan, for the following year (April 1<sup>st</sup> to March 31<sup>st</sup>), are presented to the Council ~~by~~ at its ~~March~~January meeting.
6. Ats the conclusion of the current Program/Fiscal year, the Review Panel and the CEO shall work together to complete the performance review following a process that is based on the following components and timeframes. Timeframes may be adjusted by the Review Panel with the consent of the CEO to reflect the timing in any specific year.
  - a) Data necessary to support the review will be identified no later than March 1<sup>st</sup> annually.


DATE APPROVED	DATE LAST REVISED
July 30, 2013	September 29, 2021

 The College of Naturopaths of Ontario	Policy Type <b>GOVERNANCE PROCESS</b>	<b>COUNCIL POLICIES</b> <b>Item 6.03</b>	
	Title  <b>CEO Annual Performance &amp; Compensation Review</b>	Policy No.	<b>GP19.043</b>
		Page No.	<b>2</b>

- b) The self-assessment components of Forms 1, 2 and 4 shall be completed by the CEO and provided to the Review Panel no later than April 15<sup>th</sup> annually.
  - c) The Review Panel shall seek the input from the staff of the College on the Management and Compliance component of the review (Form 2) by way of a survey no later than May 15<sup>th</sup> annually.
  - d) The Review Panel shall review the self-assessments and survey results and shall develop drafts of the Council assessment components of Forms 1, 2, 4, and 5, and shall use Form 3 to calculate any bonus eligibility by June 10<sup>th</sup> annually and shall subsequently review these drafts with the CEO for feedback.
  - e) The Review Panel shall finalize all documents (within a draft CEO Performance Review Report), Forms 1, 2, 4, and 5, and present these to the Council in an in-camera session in July annually at which time Council shall approve the Report, either as presented or with appropriate amendments;
  - f) The Review Panel shall present the final CEO Performance Review Report to the CEO not later than August 15<sup>th</sup> annually and the CEO shall be required to sign Form 5 as an acknowledgment of receipt of the Report, directed to implement the Report and to file the Report on the CEO's personnel file; and
  - g) The CEO shall be entitled to add any comments to the Report, which shall be provided to the Council by the Review Panel and shall also be filed in the CEO's personnel file.
7. The CEO and the Review Panel shall ensure that there is adequate time set aside at the July Council meeting for a full discussion of the draft CEO Performance Review Report as this is the only opportunity for the Council to provide its input to the Report.
  8. The Council may retain an objective third-party to manage the process for the Review Panel and to be a resource through the process to evaluators and employees.
  9. Separate and apart from any incentive bonus awarded to the CEO as set out in paragraph 4, the Council shall annually index the CEO's base salary against the Consumer Price Index (November Ontario-All items) annually with any changes taking effect April 1<sup>st</sup> of the following year, subject to acceptance of the budget by Council. consider adjusting the CEO's base salary for inflation using an average of the following three sources:
    - ~~Morneau Sobeco (or a similar compensation/HR benefits consulting firm) that publishes data each year forecasting salary adjustments;~~
    - ~~a) Canadian Society of Association Executives that includes projections on increases employees of not for profits expect their governing boards to approve for the next year;~~
    - ~~b) Consumer Price Index (CPI) data as published by Statistics Canada.~~

DATE APPROVED	DATE LAST REVISED
July 30, 2013	September 29, 2021



 The College of Naturopaths of Ontario	Policy Type	COUNCIL POLICIES
	GOVERNANCE PROCESS	Item 6.03
	Title	Policy No.
	CEO Annual Performance & Compensation Review	GP19.043
		Page No.
		3

Council shall approve the annual salary adjustment as part of an in-camera session ~~by~~ in March ~~January~~ annually.

~~at the same time it is considering the CEO's objectives and priorities and development plan, as well as the College's budgets.~~

DATE APPROVED	DATE LAST REVISED
July 30, 2013	September 29, 2021



The College of Naturopaths of Ontario

## BRIEFING NOTE

### Committee Appointments

**PURPOSE:** The Council is asked to appoint volunteers to the Statutory and Council Committees of the College.

**OUTCOME** Decision

**NATURE OF DECISION** ☐ Strategic ☒ Regulatory Processes & Actions ☐ Other

**PROCESS:**

<b>Activity:</b>	Presentation and discussion.		
<b>Results:</b>	Decision on appointments		
<b>Overall Timing:</b>	25 minutes		
<b>Steps/Timing:</b>	<b>1.</b>	CEO will present the briefing and the list of appointments.	10 minutes
	<b>2.</b>	Council questions and discussion.	10 minutes
	<b>3.</b>	Motion	5 minutes

**BACKGROUND:**

The Council has two sets of Committees, the Statutory Committees as set out in the Health Professions Procedural Code and the Council Committees as established in the College's by-laws and the Council Governance Process policies (GP06-Committee Principles).

Committee appointments are made for approximately one year or until the appointments are considered by Council. The last large group of appointments were made in May 2021.

The Council must appoint a variety of individuals to the Committees, including Council members, or in some instances Public members (appointed by the Government) or both, and Public Representatives.

All existing Committee members were asked to consider whether they wish to continue in their current roles, add new ones or change to new Committees, and an on-line form was provided to capture everyone's preferences.

**DISCUSSION POINTS:**

A total of 78 volunteers completed the on-line form to select either program roles, committee roles or both. Each submission has been reviewed and for those who selected involvement with Committees, their request has been slated into the available positions and an acknowledgement and confirmation of the recommendation being made to the Council was provided.

The following table summarizes the minimum number of required appointments by Committee to guide the Council's deliberations.

Committee	Council member	Public member	Registrant (Council)	Registrant (non-Council)	Public Reps	Total needed
<b>Statutory Committees</b>						
Discipline/FTP	--	2	1	Any	Any	5
ICRC	--	1	-	1	Any	3
QAC	--	1	1	1	Any	3
Patient Rels	1	--	--	1	Any	3
Registration	--	1	--	1	Any	3
<b>Council (Non-statutory) Committees</b>						
Audit	1	--	--	1	--	3
EDIC	1	--	--	1	Any	3
Exam Appeals	1	--	--	1	--	3
Governance	1	--	--	1	Any	3
GPRC	1	--	--	Any	Any	2
Inspection	1	--	--	1	Any	3
Risk	1	--	--	Any	Any	2
Standards	1	--	--	2	Any	3
SSRC	1	--	--	1	Any	5

At the completion of this process, three committees were found to be short of individuals to meet the requirements.

- The Exam Appeals Committee was missing a Council member; however, Dr. Jacob Scheer, ND agreed to continue on this committee.
- The Audit Committee was left with no individuals on it; however, several volunteers agreed to take this on as an added Committee and both Brook Dyson and Paul Phillion agreed to sit on this Committee on behalf of the Council.
- Finally, the Quality Assurance Committee was missing a non-Council ND position; however, after seeking volunteers, two have come forward and agreed to sit on this Committee.

It should be noted that the College took a decision to remove from its website a list of Committee members. This was due to two factors. First, an external communication having been sent to members of one Committee which may have been seen to be attempting to influence those discussions. Second, the College has heard of some volunteers feeling ostracized from other organizations because they volunteer for the College.

In the interest of maintaining our volunteer base and protecting our volunteers from any potential harassment, the list will not be made public pursuant to paragraph (d) of section 7(2) of the Code.

Notwithstanding the fact that the list itself will not be released publicly, there is no need for Council to go in-camera for these discussions as it is unlikely that the Council will speak to individual appointments other than Council members. However, should a situation arise where a specific appointee needs to be discussed, we would recommend that the Council go in-camera at that time.

The proposed list of appointments is attached to this briefing note (and has been redacted from the public disclosure file).

## ANALYSIS

Risk Assessment – The risk assessment is based on the document *Understanding the Risk Analysis Terminology*, a copy of which is included in the Information Items of the Consent Agenda. Only those risks that have been identified will be addressed.

- Operational risk:
  - People – While another matter before the Council focuses on competencies of those who work for the College, the risk embodied with this item is whether the College has a sufficient number of people to staff its Committees.
  - External events – The College and the profession continue to be impacted by COVID-19 which makes decisions on long term volunteering difficult.
- Strategic risk:
  - Demographics – It is assumed based on anecdotal evidence that many of the potential volunteers do not participate because of the demographics of the profession. The profession is predominantly female and sizeable portion of them are at the stage of their life where their focus is also on family.

Privacy Considerations – The briefing is being made public; however, the list of Committee volunteers will not be released publicly to protect the privacy of the volunteers and based on the matter being a personnel matter of the College.

Transparency – The transparency assessment is based on the document *Understanding the College's Commitment to Transparency*, a copy of which is included in the Information Items of the Consent Agenda. Only those transparency principles that are relevant have been identified and addressed.

- Timely, accessible and contextual – release of the briefing materials and the discussion of appointments in open Council provides timely information as well as providing it in the context of the issues.
- Balance – balancing public protection and accountability against fairness and privacy is a significant consideration behind the decision to not release the names of Committee appointees publicly.

Financial Impact – The financial impact of this item is marginal and only effects the budget in terms of the number of per diems and other expenses paid to volunteers.

Public Interest – The public interest assessment is based on the document *Understanding the Public Interest*, a copy of which is included in the Information Items of the Consent Agenda. Only those relevant factors have been identified and addressed. The public interest is served by having discussions in public although lists of names is not being released. The public benefits from these appointments as they are primary means through which the regulatory framework can be operationalized.

## RECOMMENDATIONS

The Council is asked to appoint the list of individuals attached to the Committees of the College.

Andrew Parr, CAE  
Chief Executive Officer  
May 2023



The College of Naturopaths of Ontario

### **Volunteer List Redacted**

Pursuant to paragraph (d) of section 7(2) of the Health Professions Procedural Code, Schedule 2 of the *Regulated Health Professions Act, 1991*. The names of College volunteers are protected under the same authority and have therefore been redacted from the Council meeting materials being disclosed.



The College of Naturopaths of Ontario

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The College of Naturopaths of Ontario

## BRIEFING NOTE

### Educational Briefing - Discipline Processes

#### BACKGROUND

The College of Naturopaths of Ontario is established under the *Naturopathy Act, 2007* and the *Regulated Health Professions Act, 1991*. Its duty, as set out in the legislation is to serve and protect the public interest. Its mandate is to support patients' rights to receive safe, competent, and ethical naturopathic care.

The College achieves its mandate by performing four key functions.

1. **Registering Safe, Competent, and Ethical Individuals** - The College establishes requirements to enter the practice of the profession, sets and maintains examinations to test individuals against these requirements, and register competent, ethical and qualified individuals to practise naturopathy in Ontario.
2. **Setting Standards** – The College sets and maintains standards of practice that guide our Registrants to ensure they provide safe, ethical and competent patient care and guide patients to understand the standard of care that they can expect from a naturopath.
3. **Ensuring Continuing Competence** – The College creates and manages a variety of continuing education and professional development programs to help assure the provision of safe, competent and ethical naturopathic care.
4. **Providing Accountability through Complaints and Discipline** – The College holds Ontario naturopaths accountable for their conduct and practise by investigating complaints and concerns and determining appropriate solutions, including disciplining naturopaths who have not upheld the standards.

Some elements of the College's role, such as setting standards and ensuring continuing competence, are proactive inasmuch as they attempt to prevent issues from arising by setting minimum standards and ensuring a competent profession. Other elements of the College's role, such as registering individuals and holding naturopaths accountable, are reactive, that is, they are initiated only after an event occurs. The event may be a request to sit an exam or to become registered or a complaint that has been filed against a Registrant.

When we do our job well, we have set rules that ensure safe care that benefits patients; we have registered the right people who are qualified and committed to providing safe, ethical and competent care; we have ensured that our Registrants maintain their knowledge, skill and judgement; and we have held those who may have faltered to be accountable for their decisions and actions.

Other elements that will arise within the regulatory framework include "right touch regulation", using the approach that is best suited to the situation to arrive at the desired income of public protection, and risk-based regulation, focusing regulatory resources on areas that present the greatest risk of harm to the public. Both of these will be further elaborated upon in later briefings.

The focus of this briefing is on the discipline program and processes of the College. It is presented as a natural follow on the Complaints and Reports program and processes.

### **Discipline Program**

The Discipline Program is the primary vehicle through which the College holds Registrants accountable for their conduct and competence. The Discipline Program involves a minimum of three parties.

1. The College of Naturopaths of Ontario – as the regulatory authority, the College has the responsibility to set out specific allegations against a Registrant and to present the evidence in support of those allegations as part of its prosecution of the Registrant. The College is represented by the Chief Executive Officer and by General Counsel of the College. “The prosecution.”
2. One (or more) Registrants of the College – as the individuals who are regulated, Registrants are a party to the Discipline Program as they have the right to defend themselves against the allegations set out by the College. The Registrants are typically (though not always) represented by Legal Counsel and together, they are “The defence.”
3. Discipline Committee (a Panel thereof) – the Discipline Committee of the College is independent of the College (although many Council members will sit on the Committee). It will be made up of a minimum of three and a maximum of five individuals, two of which must be Public members (individuals appointed to the Council by the Government), and one of which must be a Professional member from the Council. The remaining two individuals may be any of Public members, professional members of the College (Registrants) or Public Representatives appointed by the Council as set out in the by-laws. The Panel is “The Jury.”

Notwithstanding the imagery evoked by the terms “Prosecution”, “Defence” and “Jury”, the matter is not a criminal proceeding but rather, a civil one. In a disciplinary matter brought before a panel of the Discipline Committee, the College is responsible for presenting sufficient evidence to “prove” its case. The burden of proof is “on the balance of probabilities”, that is, having weighed the evidence, that the Registrant is more likely than not to have committed acts of professional misconduct or demonstrated incompetence. This is different than a criminal matter where the burden of proof is “beyond a reasonable doubt”.

A discipline hearing is conducted in a formal quasi-judicial setting in the College’s Council Chamber (or virtually) with all parties present. Evidence is presented under oath and witnesses are called before the Panel and subject to examination and cross-examination.

If the “prosecution” can prove the allegations, the Panel of the Discipline Committee will make a finding of either professional misconduct or incompetence, or both. The Panel will issue a decision and reasons for that decision and they will set out a penalty in the form of an order from the Panel. The Panel may order any one or more of the following as part of its penalty:

- a reprimand;
- a fine to the Minister of Finance;
- direct the CEO to impose restrictions on the Registrant’s registration, called terms, conditions or limitations, including but not limited to completing a specified education and remediation program;
- direct the CEO to suspend the Registrant’s Certificate of Registration for a period of time;
- direct the CEO to revoke a Registrant’s Certificate of Registration.

In addition to the penalty that can be imposed by the Panel, the Panel may also impose “costs” on the Registrant, that is, the Panel can order that the Registrant reimburse the College for part of its costs of the investigation, its legal costs and hearing costs. Where a finding of professional misconduct has been



made that relates to sexual abuse, the Panel can also order the Registrant to reimburse the College for funding provided to patients for counseling in sexual abuse.

Both the Registrant and the College have the right to appeal a Discipline Committee decision to the Superior Court of Justice.

### **Discipline Process**

Given the importance of the Discipline Program to the College's mandate and to the Registrants against whom allegations may be made, the Discipline Process is quite complex and can take a great deal of time. Due process requires that the Registrant have sufficient time to mount a defence of the allegations while the College has an obligation to both the public and the Registrant to ensure that the process is timely.

The discipline process begins when the Inquiries, Complaints and Reports Committee (ICRC) refers specified allegations of professional misconduct and/or incompetence to the Discipline Committee for a hearing. The ICRC will make such a referral only after they have completed a fulsome investigation into either a complaint filed against a Registrant or an inquiry initiated by the CEO. The ICRC will have considered, among other things, the public interest, the risk of harm posed to the public and the likelihood of success within the discipline program. The ICRC is required to be very specific in the allegations referred to the Discipline Committee and once made, additional allegations cannot be raised as part of the discipline program.

The following is a general outline of the stages of a disciplinary matter involving a Registrant of the College. As a part of its transparency initiatives, the College ensures that the public is aware of the status of each matter being brought before the Discipline Committee.

#### Stage 1: Notice of Hearing and Disclosure

Legal Counsel for the College will, based on the referral of the specified allegations, draft the Notice of Hearing. Once signed by the CEO, the Notice of Hearing, Rules of Procedure of the Discipline Committee, and the Disclosure (which is all of the information the College has that is relevant to the allegations) will be sent to the Registrant or the Registrant's Legal Counsel, if one is appointed.

#### Stage 2: CEO and Legal Review

The CEO of the College is purposefully not directly involved in matters under investigation by the ICRC. This ensures that when a matter is referred by the ICRC to the Discipline Committee, the CEO who is responsible, along with Legal Counsel, for taking the matter before the Discipline Committee does so with a fresh look and without any potential bias.

In this stage, the CEO and Legal Counsel will review the allegations, the evidence in support of the allegations, witness statements and expert opinions to determine how the College wishes to proceed with the Discipline Hearing.

Also in this stage, Legal Counsel will prepare a memorandum to the CEO setting out the range of penalties that might be imposed in the matter and the case law from other regulatory authorities that support the range of penalties. Legal Council will also begin drafting an Agreed Statement of Fact (ASF) and Joint Submission on Penalty (JSP) for use later in the process.

#### Stage 3: Pre-Hearing Conference (PHC)

In accordance with the Rules of Procedure of the Discipline Committee, a Pre-hearing Conference (PHC) is held. The PHC is chaired by an independent person familiar with discipline proceedings before regulatory bodies or a member of the Discipline Committee appointed by the DC Chair.

At the PHC, the College presents an overview of its case and the Registrant or their Legal Counsel presents their defence. The PHC Chair will review the evidence and advise the parties about the strengths of their cases and areas where they may be weak. The Chair will also, based on their experience in discipline matters, provide the parties with advice as to whether the case might lead to a finding against the Registrant.

The parties also often engage in discussions surrounding whether a settlement is possible. A settlement occurs when the Registrant agrees to some or all of the allegations against them and when both the College and the Registrant can agree on a penalty. A settlement is seen as serving the public interest as it will result in an admission by the Registrant, an agreement on penalty and remediation and potentially limits on the Registrant's practice, either temporary or permanent.

Legal counsel for the College will present to the PHC Chair and the Registrant a draft Agreed Statement of Facts (ASF) and Joint Submission on Penalty (JSP) at the PHC in an attempt to facilitate settlement.

#### Stage 4: Setting a Hearing Date

Following the PHC and based on the outcome of on-going settlement discussions, both parties will ask the Chair of the Discipline Committee to appoint a panel to hear the matter and to set the date(s) for a hearing.

Although the Notice of Hearing is publicly released and the referral information about the matter is posted to the College's website, the Discipline Committee has not yet been involved while the preliminary stages are completed.

The Discipline Committee Chair will canvass members of the Committee to ensure that no one who has a conflict of interest with the Registrants against whom the allegations are made is potentially appointed to the Panel. The Chair will then appoint a Panel as well as a Panel Chair.

#### Stage 5: The Hearing

At this stage, the panel appointed by the Chair of the Discipline Committee will be convened for one or more days during which they will be presented with evidence in support of the allegations by the College and with the defense case for the Registrant. A hearing has the following components:

- a. Presentation of the case by the College and the defense by the Registrant.
- b. Verbal decision and reasons on the allegations by the panel.
- c. If a finding of professional misconduct or incompetence is made, submissions by the College and Registrant on penalty.
- d. Verbal decision and reasons on penalty.
- e. Submissions on costs by the College and Registrant.

In an uncontested, single day hearing the College and the Registrant present the ASF, the fact relating to the allegations against the Registrant as well as a joint submission on penalty and proposed costs. More information about the settlement process is provided below.

In a contested hearing, the panel typically issues initial verbal decisions. If a finding of professional misconduct or incompetence is made, the panel will ideally proceed as soon as time permits to hear submissions on penalty. If the College is also seeking costs, these submissions will occur after the

submissions on penalty as costs are not part of the penalty. After hearing these submissions, the panel will usually (although not in every case) issue a verbal decision and a written order on penalty and, if applicable, costs.

#### Stage 6: Decision and Reasons

After the hearing has concluded, the Panel will draft the written Decision and Reasons. This document, once finalized, is formally issued by the Panel to the College, the Registrant and the Complainant (if applicable) and is also released publicly by the College on its website and through The Canadian Legal Information Institute (CanLII), a subsidiary of the Federation of Law Societies of Canada.

If either the Registrant or the College does not agree with the Decision and Reasons as issued by the Discipline Panel, either may appeal the outcome to the Superior Court of Justice for Ontario.

#### Stage 7: Implementation

If the Panel finds that the Registrant had committed acts of professional misconduct or incompetence, and imposes a penalty, and assuming there is no appeal of the Decision and Reasons, the College will implement any penalty imposed by the Panel.

The penalty, which must be completed within a set period of time, typically includes one or more of the following:

- Revocation of their certificate of registration or a suspension from practising the profession for a period of time;
- A reprimand of the Registrant by the Panel;
- Applying a term, condition or limitation on the Registrant's certificate of registration which may include the following;
  - Taking one or more continuing education courses related to matters relevant to the findings against the Registrant;
  - One or more meetings with Experts in areas of the practice of the profession related to the findings against the Registrant;
  - One or more meetings with Experts in regulation;
  - One or more inspections on the Registrant's practice and files to review matters related to the findings against the Registrant;
- A fine of not more than \$35,000 payable to the Minister of Finance.

#### Reaching a Settlement

There are a number of reasons why one or both parties to a hearing may wish to reach a settlement, some of which are:

- Witnesses to the matter, including patients, may decide they no longer wish to testify;
- Information received during the process may bring doubt upon the credibility of a witness;
- Expert testimony may not be as strong as initially anticipated or new information brings the credibility of the Expert themselves into question;
- The costs of proceeding to a full hearing outweigh the potential benefits for either side in terms of likely outcomes.

The parties can reach a settlement at any time before or even during a hearing; however, the closer the settlement occurs to the start of a contested hearing the more likely the College is to be seeking higher costs (as the costs to the College have increased).

An offer to settle the matter is typically made either just prior, during or immediately following the Pre-Hearing Conference. The College will often make an initial offer to the Registrant and their legal counsel by drafting an Agreed Statement of Facts (ASF) and a draft Joint Statement on Penalty and Costs (JSOC). In most circumstances, a negotiation follows these offers where either side indicates its willingness to agree to or withdraw allegations, agree to penalties and agree to costs for the process.

**Allegations-** allegations may be withdrawn because the College does not have sufficient evidence (witnesses, experts, documentation) to obtain a finding from a Panel of the Discipline Committee or the allegation is not crucial to the overall matter at hand.

**Penalties –** penalty discussions are always based on the case law from other regulatory bodies in matters that are similar. It is highly improbable that another case exists that exactly matches the matter before the Discipline Committee; however, through a series of similar cases, a range of penalties can typically be derived. If both sides can agree on the range and the seriousness of the case to be brought before a panel, then the likelihood of agreeing on penalty is increased.

In any penalty discussion, the College is considering four principles. First, specific deterrence to ensure that the Registrant does not repeat the allegations to which they are agreeing. Second, general deterrence to provide information to the profession on the whole as to what happens when regulations and standards are breached. Third, the ability to remediate the Registrant through education and training to improve compliance and outcomes in the future. Fourth, whether the penalty will allow the public to have confidence in the ability of the College to regulate its Registrants in the public interest. The College will also consider aggravating and mitigating factors, that is, factors that affect the decision including the parties involved, the circumstances of the matter, agreeing to settle among many others.

**Costs –** while the courts have made several rulings on the validity of cost awards (up to 66% of the costs of a contested hearing, provided the costs have been well documented and are reasonable), cost discussions in an uncontested matter are detailed. The College documents all of its costs throughout the process; however, when making an “offer” as to the costs, some costs have to be estimated on how long the settlement discussions will take and how close to or into an actual hearing the process will go. Once again, costs are considered in the context of other rulings by regulatory bodies; however, the range is usually more broad and dependent on the organization involved. The CEO will also consider facts presented, in good faith, by the Registrant, in particular when it involves potential hardship imposed on the Registrant.

Any settlement must be acceptable to the Panel of the Discipline Committee. Again, the courts have consistently ruled that panels must accept any joint proposal on penalty unless the panel can reasonably conclude that the penalty is beyond the range for such cases, either too harsh or too lenient and that the settlement will undermine public confidence in the regulatory body and process. Not included among the reasons for rejecting a joint proposal on penalty is that a panel simply does not like or agree with the penalty itself.

### **Importance of this Program**

The importance of the Discipline Program and related processes cannot be overstated. It is a critical aspect of self-regulation and maintaining the trust of the public. It can be a very lengthy process as it requires a great deal of careful thought on the part of all three (or more) parties.

It is the role of the College to proceed on these matters and to do so with the intent to serve and protect the public interest. There is no satisfaction derived from successfully prosecuting a Registrant just as there is no embarrassment of not being successful. The College’s role is to present the evidence

that is available to it. The Panel's role is to weigh that evidence and the credibility of witnesses and experts and to render a decision.

Respectfully submitted,

Andrew Parr, CAE  
CEO

May 2023



The College of Naturopaths of Ontario

## BRIEFING NOTE

### Educational Briefing - Complaints and Reports Processes

#### BACKGROUND

The College of Naturopaths of Ontario is established under the *Naturopathy Act, 2007* and the *Regulated Health Professions Act, 1991*. Its duty, as set out in the legislation, is to serve and protect the public interest. Its mandate is to support patients' rights to receive safe, competent, and ethical naturopathic care.

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Some elements of the College's role, such as setting standards and ensuring continuing competence, are proactive inasmuch as they attempt to prevent issues from arising by setting minimum standards and ensuring a competent profession. Other elements of the College's role, such as registering individuals and holding naturopaths accountable, are reactive, that is, they are initiated only after an event occurs. The event may be a request to sit an exam or to become registered or a complaint that has been filed against a Registrant.

When we do our job well, we have set rules that ensure safe care that benefits patients; we have registered the right people who are qualified and committed to providing safe, ethical and competent care; we have ensured that our Registrants maintain their knowledge, skill and judgement; and we have held those who may have faltered to be accountable for their decisions and actions.

The focus of this briefing is on the Complaints and Reports program and processes of the College.

#### Complaints and Reports Program

The Complaints and Reports Program is the primary method by which the College responds to concerns about the practice, conduct or health of a Registrant in instances where they may have failed to meet the standards of the profession. These concerns can be raised by formal complaints, reports filed by regulated health professionals, employers or other organizations or as the result of investigations initiated by the College's CEO. The formal process for investigation of a complaint is outlined in the *Regulated Health Professions Act*. Each step of the complaints and reports process is designed to ensure fairness to both the person filing the complaint, and the ND named in the complaint. Although the College investigates all complaints received, the RHPA does permit the Inquiries, Complaints and Reports Committee (ICRC) to take no action if it considers the complaint to be frivolous, vexatious, made in bad faith, moot or otherwise an abuse of power.

The ICRC is responsible for overseeing the investigation of inquiries, concerns or reports regarding the conduct and/or competence of Registrants. An investigation may include appointing formal investigators to obtain records, interviewing parties or witnesses, collecting any relevant documentation.

The ICRC is composed of Naturopathic Doctors, appointed public members and representatives of the public. The Committee works in panels of no less than three people, one of which must be a public member.

The ICRC does not have the authority to order monetary compensation or process anonymous complaints .

### **Complaint Process**

Given the importance of the Complaints Program to the College's mandate and to the Registrants against whom allegations may be made, the Complaints Process can be complex and depending on the nature and complexity can take a great deal of time. The *Regulated Health Professions Act* requires that investigations of complaint be completed within 150 days of it being filed with the College. Should more time be necessary the College is required to send regular notifications to the Health Professions Appeal and Review Board, as well as both the complainant and Registrant, explaining the reason for the delay and the anticipated date of completion.

The Complaints and Reports process begins when the College receives information that a Registrant may have committed acts of professional misconduct and/or incompetence. This can be in the form of a formal complaint, which can be filed at any time and by any person including but not limited to patients, other health professionals, Registrants or any member of the public. All complaints must be submitted to the College in writing or recorded in video or audio format. Complaints should include:

- The name of the naturopathic doctor.
- The Complainant's name and contact information.
- Details of the problem or concern, including specific places, dates and issues that occurred, etc.
- The names of other individuals or witnesses who may be able to provide the College with more information.
- Any other information that may help the ICRC process the complaint.

Outside of a formal complaint sometimes information is brought to the attention of the College from a variety of other sources. This information might include a criminal case being reported in the newspaper or information provided by an employer or insurance company who may choose not to file a formal complaint or go through the complaints process. In these situations, the CEO will consider the information and College staff will verify the information if possible. If there are reasonable and probable grounds to believe that a Registrant has committed acts of professional misconduct or is incompetent

and the CEO determines that action is needed, with the approval of the ICRC, the CEO may appoint an investigator to collect information about the matter and file a Report with the ICRC.

The following is a general outline of the stages of a Complaint/Report process. As a part of its transparency initiatives, the College publishes anonymized summaries of outstanding complaint and report investigations on its website.

#### Stage 1: Notice of Complaint/Report

Within 14 days of receipt of a complaint or a report, the College issues a notice of complaint/report to the Registrant in question. The Registrant may make a written submission to the ICRC within 30 days of the date of the notice.

#### Stage 1a: Interim Order

In extreme situations after receiving a complaint or appointing an investigator, a Panel of the ICRC may make an interim order to suspend or impose terms, conditions or limitations on a Registrant's certificate of registration if it believes that the Registrant's conduct is likely to expose patients to harm or injury. If an interim order is being contemplated, the Registrant will typically receive notice about the intention to impose an interim order and provided an opportunity to respond. In certain circumstance, a Panel of the ICRC may impose an interim order without notice where it believes that urgent intervention is required. Where an interim order is made, the information is posted on the public register.

#### Stage 2: Additional comments from complainant (Complaints ONLY)

The Registrant's response is provided to the complainant who may provide comment. Should new information or allegations be raised in the response, the information will again be provided to the Registrant for comment.

#### Stage 3: Review by ICRC

Once all documentation and relevant information has been collected from the parties and possible witnesses, the matter is reviewed by a panel of the ICRC. The Panel conducts a thorough review of the information and considers whether there are any additional documents that should be obtained or any other witnesses who should be approached and interviewed.

#### Stage 3a. Expert Opinion

Where unwritten? standards of practice within the profession are an issue, the Panel may retain a knowledgeable member of the profession to provide an expert opinion. Similarly, experts in document analysis, DNA, mental health or other disciplines may be required in some cases.

#### Stage 3b: Formal Investigation (Complaints ONLY)

In some circumstances the Panel may request that the CEO appoint a formal investigator, who has the power to:

- Enter the Registrant's place of practice and examine records or equipment and, where necessary, copy or remove them;
- Summons witnesses or documents; and
- Obtain and enforce a search warrant.

#### Stage 4: Decisions and Reasons



Once the investigation is completed the ICRC deliberated on the potential outcomes of the complaint/report. A written decision and the reasons for the decision are provided to both the complainant and the Registrant except where the matter has been referred to the Discipline Committee or to another panel of the ICRC to conduct health inquiries.

A panel of the ICRC, after investigating a complaint or report, may do any one or more of the following:

Take no action

if the conduct and/or actions meet reasonable and acceptable standards of practice, or if there is insufficient information to support the allegations, the Committee may decide to take no action.

Issue a Letter of Counsel

A Letter of Counsel is a communication of the ICRC's expectations for corrective action on behalf of the Registrant, and may include advice, guidance and recommendations to review particular standards or publications.

Oral Cautions

An Oral Caution requires the Registrant to appear before a panel of the ICRC to be cautioned about their practice or conduct. The RHPA requires the details of all Oral Cautions to be listed on the Public Register.

Specified Continuing Education or Remediation Program (SCERP)

A SCERP requires the Registrant to successfully complete an educational or remediation program specified by the ICRC. SCERPs may include educational training, self-directed learning, inspections and or assessments. The RHPA requires the details of all SCERPs to be listed on the Public Register.

Discipline Committee Referrals

Where the allegations are sufficiently serious and information exists to support the allegations, a Panel of the ICRC may refer the matter to the Discipline Committee to hear specified allegations of professional misconduct or incompetence. All referrals to the Discipline Committee including the Specified Allegations are listed on the Scheduled Hearings page of College's website and posted on the Public Register.

Health Inquiry Referrals

Where a panel of the ICRC investigating a complaint or report believes that the Registrant may have a physical or mental condition which prevents them from providing safe, ethical and competent care, they may refer the matter to another panel of the ICRC for investigation of possible mental or physical health concerns that might interfere with their ability to practise. The Health Inquiry Panel may require an independent medical examination of the Registrant. If the Registrant is considered to be incapacitated, the panel may refer the matter to the Fitness to Practice Committee who may suspend, attach specific limitations or revoke a certificate of registration. Information about incapacity proceedings and decisions regarding a Registrant's capacity are not published publicly. However, if their ability to practise has been restricted, that information is made available on the public register.

Stage 5: Implementation of the Outcomes

The College monitors compliance with all ICRC outcomes. If a Registrant fails to comply with a decision of the ICRC, the CEO of the College, with the approval of the ICRC may appoint an investigator to inquire into the Registrant's actions and the reasons for non-compliance.

**Reviews by HPARB**

Either the complainant or Registrant may request any of the decisions in complaint matters, except for a Referral to the Discipline or Fitness to Practice Committee, be reviewed by the Health Professions Appeal and Review Board (HPARB). The Board is an independent body established by the provincial government and is made up of non health care professionals. Following a review HPARB may:

- Confirm the Committee's decision;
- Refer the matter back to the Committee;
- Require the Committee to take a specific action;
- Make recommendations to the Committee.

**Importance of this Program**

The College's Complaints and Report program is a critical aspect of self-regulation and maintaining the trust of the public. It can be a lengthy and costly process as each complaint and report is thoroughly investigated, reviewed, and considered. Each matter is unique and as such there is complexity in the administration of the ICRC's functions.

The Complaints and Reports Program is the primary method by which the College responds to concerns about the practice, conduct or health of a Registrant in instances where they may have failed to meet the standards of the profession and ensures that Registrants provide safe, competent and ethical care.

Respectfully submitted,

Natalia Vasilyeva  
Manager, Professional Conduct

May 2023